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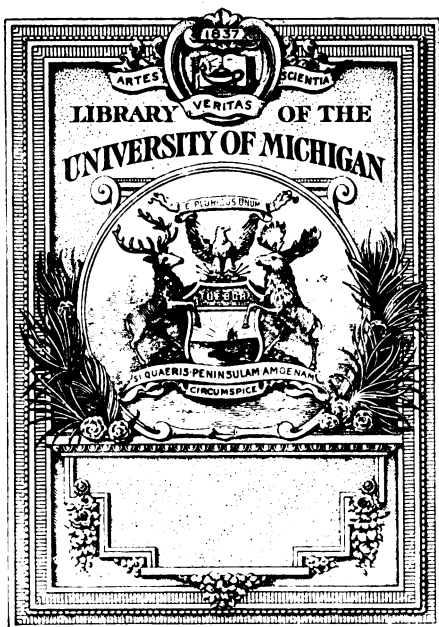
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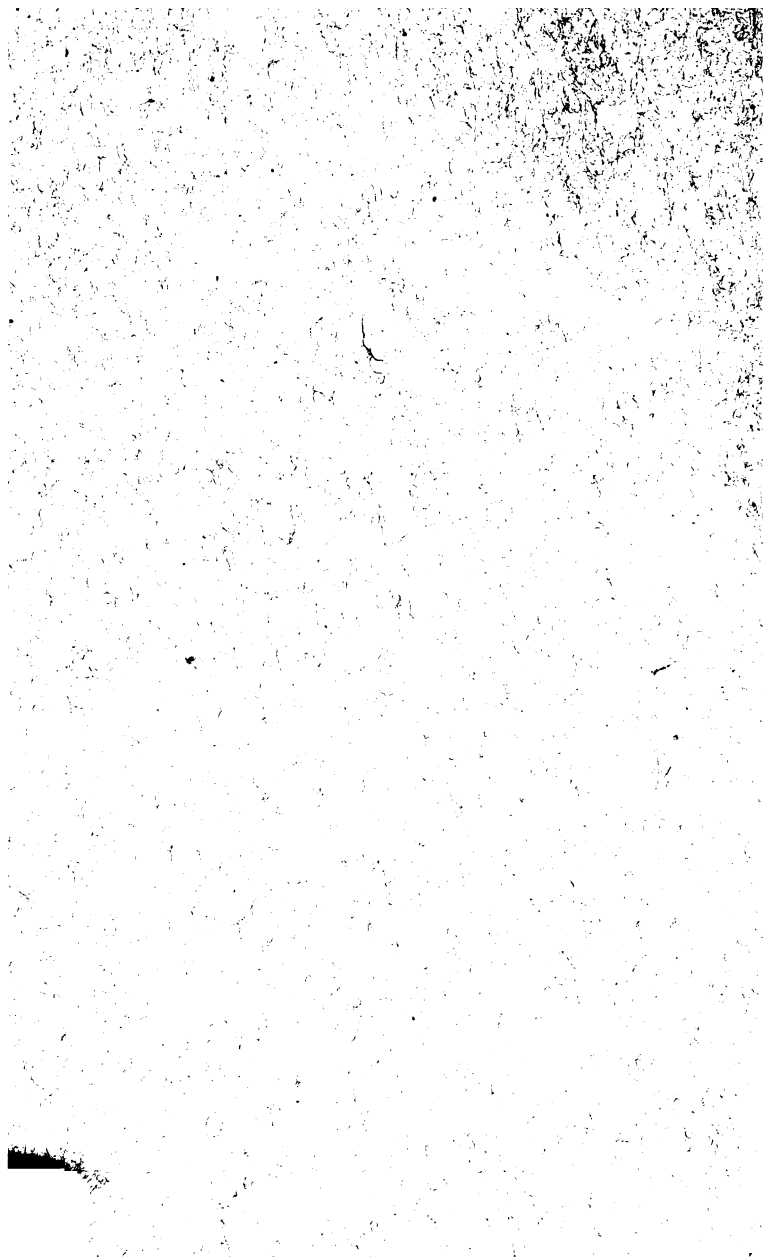


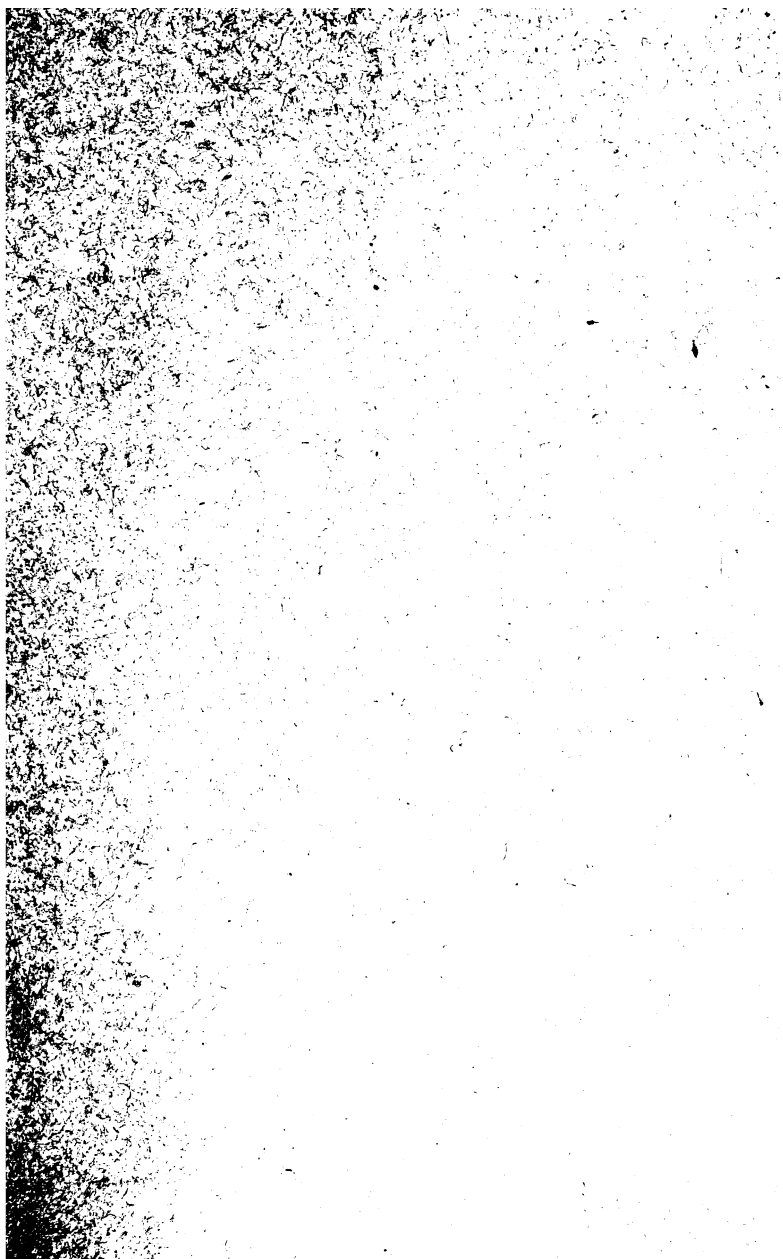
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1906







# **ADMINISTRATIVE REFORM**





# ADMINISTRATIVE REFORM

## AND THE LOCAL GOVERNMENT BOARD

BY

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# PREFACE

TO THE FIRST EDITION.

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It has for some time been obvious that, from various causes, the difficulty of obtaining by Act of Parliament those reforms which are essential to the well-being of the community is almost insuperable.

Yet much can be done by any Government which has the support of a majority of the House of Commons, and is backed up with respect to just reforms by the country.

One object of this work is to give a small sample of what can be done in the way of reform by administrative action without any Act of Parliament.

The powers of the Government, representing both in constitutional theory and practice the Crown, and in practice the House of Commons, may be divided, as far as the present purpose is concerned, into two classes: (1) those derived from the Royal Prerogative and the Common Law; and (2) those given to various departments of State by statute.

These latter, again, may be subdivided in

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various ways. Many statutes give definite powers to departments; others confer on departments authority to make rules, orders, or regulations, which, when duly framed, are as much law (until revoked or altered) as the statute law itself.

In this book, the powers and duties of only one of the great departments (the Local Government Board) are discussed; and even in dealing with that Board I have almost entirely restricted myself to considering its powers in connection with the Poor Law.

Reform by administration possesses not only the advantage of not requiring the consent of a Second Chamber, but it has the further advantage that it has not to be pressed by mere force through a House which includes a minority, who, though unable to prevent reform altogether, can both maul, and to a large extent spoil and delay, all reforms, and, by the very time they consume, as absolutely prevent many reforms as if the obstructive minority were a triumphant majority.

The subject of Poor Law has now for some time been prominently before the public, and real and substantial movement with regard to its administration cannot long be delayed; also the unsolved question of the "unemployed" is a disgrace to our civilisation and a danger to the State. As

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Mr. Stansfeld<sup>1</sup> has well pointed out at a recent Poor Law Conference,<sup>2</sup> the legislative reforms of 1832 were quickly followed by the "middle-class" Poor Law legislation of 1834, and the great constitutional changes which have taken place in this country since that date now necessitate alterations in the present Poor Law, so as to make it *more humane*. Indeed, Mr. Stansfeld, who was formerly a President of the Local Government Board, expressed his opinion that such a change was not only necessary but desirable. The conduct of the Local Government Board towards the poor is, in my opinion, sometimes of doubtful legality, sometimes harsh, and sometimes unsatisfactory.<sup>3</sup>

A word should be said as to the reforms which the authorities connected with the Poor Law made under the late (*i.e.*, the Gladstone-Rosebery) Government. When Mr. (now Sir Henry) Fowler was first appointed President of the Local Government Board, he effected some useful, if not heroic, administrative reforms.<sup>4</sup>

\* \* \* \* \*

<sup>1</sup> [Afterwards Sir James Stansfeld.]

<sup>2</sup> See p. viii. below.

<sup>3</sup> *I.e.*, in the old circulars, etc., of the Board and its predecessors. See pp. xxiv.-v., xxvii., 33, 40, 44, 49, 52, 53, 104.

<sup>4</sup> Among Sir H. Fowler's administrative reforms may be mentioned the orders allowing the guardians to give tobacco and "afternoon tea" to the aged, and that permitting the guardians to give "dry tea" so that tea may be "made" in the wards. The object of this latter order was, of course, to give

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It will now be convenient to mention some resolutions for administrative reform passed by the Conference<sup>1</sup> on Poor Law Reform

a more home-like character to the meal. His order authorising *every* guardian to visit the house is one of great value. Previously a guardian who was not on the Visiting Committee could only go over the house *by leave* of the master of the workhouse. Also Sir H. Fowler authorised the appointment of lady visitors. The Local Government Act, 1894, made no substantive change in the Poor Law, but reformed the mode of election of guardians, etc., and so greatly altered its machinery.

<sup>1</sup> The following bodies appointed representatives to this conference:—

*Boards of Guardians.*—Bethnal Green, Camberwell, Fulham, Greenwich, Islington, Kensington, Lambeth, Lewisham, St. Olave's, St. George's East, St. Saviour's, Shoreditch, Stepney, Wandsworth and Clapham, Whitechapel, Woolwich.

*Societies.*—Battersea Labour League, Bethnal Green Rate-payers' Association, British Women's Temperance Association, Christian Social Union, Club and Institute Union, English Land Restoration League, Fabian Society, Guild of St. Matthew, Helpers' Association, Leighton Hall Neighbourhood Guild, Lifeboat Shelter, Metropolitan Association for Befriending Young Servants, Metropolitan Board School Teachers' Association, Midwives' Institute, Newman House Settlement, Nonconformist Council, Poor Law Officers' Association, Positivists' Society, Southwark Diocesan Workhouse Association, the United Sisters' Friendly Society, University Hall, West London Ethical Society, West London Mission (Social Department), Wesleyan East End Mission, Women's Poor Law Guardian Society, Women's Suffrage Society, Women's University Settlement.

*Trade Unions.*—Clothiers' Cutters, East London (Women) Ropemakers, Electro- and Stereo-typers, Engine Drivers, House Painters (Islington and North London), Labour Protection League, Litho Stone Preparers, Navvies, Operative Bakers (Amalgamated Society), Operative Bakers (Amalgamated Union),

called by the London Reform Union. At a meeting of this Conference, held on April 25th, 1894, at the Club Union Hall, Clerkenwell Road, Mr. Thomas Lough, M.P., in the chair,<sup>1</sup> the following resolutions were carried:—

### ADMINISTRATIVE REFORMS.

#### (a) Improved Inspection.

##### (1) "That this Conference asks for an

Pressmen, Printers' Labourers, Type Founders, Vellum Binders, Women's Trade Union Association.

*Political Associations.*—North Kensington Conservative Association; Liberal Associations of Bow and Bromley, Chelsea, East Dulwich, Hampstead, Hoxton, Lewisham, Limehouse, Mile End, North Hackney, North Kensington, Poplar, Rotherhithe, West Marylebone, West Southwark, West St. Pancras; Women's Liberal Federation; Women's National Liberal Association; Women's Liberal Associations of Bethnal Green, Chelsea, Hammersmith, Lambeth, Mile End, Norwood, North Kensington, Paddington, Penge and Beckenham, South Kensington, Westminster, West Islington.

*Clubs.*—Battersea Progressive, Bloomsbury Young Men's, Cobden, Democratic, Hammersmith, Mildmay Radical, Newington Reform, North London, St. James' and Soho, St. Pancras Reform, West Norwood Reform; Liberal and Radical Clubs of Battersea, Clapham, Central Finsbury, Chiswick, Dulwich, East Greenwich, Hackney, Hatcham, Lewisham and Lee, North Camberwell, North Lambeth, Paddington, South Wimbledon.

*London Reform Union Branches.*—Bethnal Green, Bow, Chelsea, Central Hackney, Fulham, Holborn, Lavender Hill, Lewisham, North Lambeth, Paddington, Peckham, Plumstead, Poplar, St. George's East, Stepney, West Islington, West Southwark.

<sup>1</sup> The Conference sat for two evenings, Mr. Passmore Edwards presiding on the other evening. It was arranged



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impartial and independent enquiry into the conduct of the Poor Law Inspectors, and other permanent officials of the Local Government Board, towards the Unemployed and Poor."

- (2) "That Women and Working-men Inspectors of Workhouses, Workhouse Infirmaries, and Schools should be appointed."

(b) Outdoor Relief.

- (3) "That this Conference urgently requests the President of the Local Government Board, with the other members of the said Board, to issue Rules or Regulations (under 5 & 6 Will. IV. c. 69) enabling Boards of Guardians to hire land—(a) for the employment of the Unemployed, provided this can be done without pauperising; (b) to let land for Allotments to Labourers."<sup>1</sup>

for convenience that reforms which were possible without an Act of Parliament (*i.e.*, "Administrative Reforms") should be discussed separately from those which could not be made without the authority of the Legislature.

<sup>1</sup> It was thought that the guardians could not legally exercise these powers under certain old statutes (see pp. 61-79), unless rules were previously issued. It appears, however, that, in theory, they can, although the sanction of the Local Government Board is practically necessary.

(c) The Administration of the Workhouse.

- (6) "That the Boards of Guardians be called upon to employ labour direct in the rate-supported institutions under their charge ; that they be requested to carry out all painting, whitewashing, and cleansing in the said institutions without the intervention of contractors ; and to have the clothing required for the workhouse made by direct employment of women, without intervention of contractors or middle-men, and at not less than trade union rate of wages."
- (7) "That the regulations, contained in the General Consolidated Order of 1847, setting forth the duties of Workhouse and other Poor Law Officers with regard to the Administration of Indoor Relief, should be revised by the Local Government Board in the light of modern knowledge and ideas."
- (8) "That it should be compulsory on Boards of Guardians to appoint outside Visiting Committees of men and women to inspect Workhouses and visit outdoor relief cases ; and that such Committees should report to the Guardians,

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and have the right to appeal to the Local Government Board in cases in which their recommendations have not been adopted."

- (9) "That a new model dietary<sup>1</sup> should be prepared by the Local Government Board, and should be made compulsory, as a minimum, on all Boards of Guardians."<sup>2</sup>

\* \* \* \* \*

Nothing has been said in this book as to the condition of pauper children under the "Supervision" of the Local Government Board and their men-inspectors. The recent report of the Commission is, as to some of the big "schools," sufficient exposure of the present system.<sup>3</sup>

"It is sixty years since" the Poor Law Administration was thoroughly overhauled. I venture to think that the time has come for further reforms and improvements.

J. THEODORE DODD.

LINCOLN'S INN,  
*June, 1896.*

<sup>1</sup> [This has now been done, see Preface to the Second Edition, p. xiii.]

<sup>2</sup> A number of resolutions for other administrative reforms were passed at the above meeting of the Conference, and at a subsequent meeting, held on May 8th, 1894.

<sup>3</sup> Surely the Government might at least place the children under the Inspectors of the Education Department, and, if necessary, obtain an Act of Parliament for that purpose. [This has now been done, see Preface to Second Edition, p. xiv.]

# PREFACE

TO THE SECOND EDITION.

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## REFORMS ALREADY EFFECTED.

IN issuing a second edition of this little book it is most satisfactory to be able to state that not a few of the reforms suggested in the previous edition have been made. The Local Government Board have superseded the old pauper nurses, and now require the guardians to employ skilled nurses in the Workhouse Infirmaries. They have issued a new and, I think, sufficient dietary for workhouses (except for the tramps). They have by circular letter suggested in many ways "the brightening of the workhouse and more liberty for and better treatment of the deserving aged who are still in the workhouses." Also Mr. Chaplin, by his circular of 1900,<sup>1</sup> advised guardians to give adequate out-relief for the deserving aged poor in suitable cases. In the same circular also he advised that the poor law children should not be retained in

<sup>1</sup> See p. 38.

the workhouse. Recently, also, the education of the poor law children who are under the care of the guardians in various institutions has been placed under the supervision of the education inspectors, and some additional facilities have been given for boarding out.

Some substantial improvement has thus been made by the Local Government Board as to the treatment of the sick, the indoor children, and the indoor aged poor; and a little improvement, at least in many unions, has been effected with regard to out-relief to the aged poor.

Two Acts have been passed with a view of permitting persons needing poor law relief to retain an advantage from their thrift if they are entitled to help from their friendly societies; but they do not assist those who have exercised thrift in other ways than by becoming members of such societies, and they are of no use even to members of friendly societies when the guardians refuse out-relief (see Chapter VIII., pp. 54, 55 below). Something has also been done by the legislature in extending the time within which certain loans must be repaid.

#### REFORMS STILL NEEDED.

But though some improvement has been effected much remains to be done; and it is my

object in this preface to indicate briefly what can be done by the Local Government Board (without any Act of Parliament) for the health and well-being of the nation.

*Three Great National Evils.*—I say “of the nation” and not “only of the poor” because the Local Government Board can do much to assist the nation to fight against three at least of the most serious evils which affect our country, viz.: disease, destitution,<sup>1</sup> and drink. These three evils are both the causes and effects of each other. Disease often causes destitution. Mr. Joseph Chamberlain has said<sup>2</sup>:—

“Preventable disease at this moment is the great agent for filling our workhouses.”

It also, as Sir F. Treves has recently said, sometimes leads to drink. Destitution is the cause of a large portion of disease and sometimes causes drink. Drink is the cause of a large portion of both disease and destitution. Yet all these three evils are to a great extent preventable.

Professor Ray Lankester recently said at Oxford<sup>3</sup>:—

“Within the past few years the knowledge of the causes of disease has become so far advanced that it

<sup>1</sup> By destitution I mean lack of any one or more of the necessities of life. See p. xxiv.

<sup>2</sup> *Standard*, July 1st, 1904.

<sup>3</sup> Romanes Lecture, 1905, p. 30.

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is a matter of practical certainty that, by the unstinted application of known methods of investigation and consequent controlling action, all epidemic disease could be abolished within a period so short as fifty years. It is merely a question of the employment of the means at our command."

Dr. Heron, Chief of the Medical Staff of the London Hospital for Diseases of the Chest, recently said that it was absolutely demonstrated that consumption was avoidable. "We have stopped cholera," he said, "give us power and we will stop the other."<sup>1</sup> An eminent medical authority recently declared that well-to-do people need never have consumption unless they catch it from the poor.<sup>2</sup>

For the prevention of epidemic disease, it is essential that the doctor should be called in as soon as a person is ill, for many epidemic diseases are spread because the sufferer and his friends are quite ignorant that he is suffering from an infectious complaint. The Medical Officer of Health for St. Pancras has pointed out the great danger of the mild or "unrecognised" cases in small-pox,<sup>3</sup> and there is like danger in many other diseases. All the authorities declare that early diagnosis of consumption is essential.

<sup>1</sup> *Daily News*, May 12, 1906, p. 8.

<sup>2</sup> See also p. 87, note.

<sup>3</sup> Report, December, 1901.

The leaflets issued by the medical officers of health exhort parents to seek medical advice as soon as the infants begin to be ill, and their Reports point out how deaths occur among children in measles, etc. from neglect in the early stages. The wonderful success of Villiers le Duc,<sup>1</sup> a rural commune in France, where the infant mortality was reduced from a rate equal to that of a town slum to zero, was due to care beginning two months *before* the infant's birth and continuing for a year after. Yet there have been serious attempts in some quarters to cut down medical relief, *e.g.*, in St. Pancras. A learned Oxford Don recently said at Birmingham that "medical relief is a growing evil."

### SUGGESTED REMEDIES.

*Facilities for Medical Relief.*<sup>2</sup>—I suggest therefore (1.) *The Local Government Board should use its influence in favour of facilitating medical relief for the poor who are ill and cannot pay for the doctor or medical necessities.*<sup>3</sup>

Much illness, weak health and general feebleness is due to want of proper food and care in infancy and childhood. *All the*

<sup>1</sup> See Appendix, p. 103.

<sup>2</sup> On this subject see Chapter XII., p. 83, and pamphlet, "Health of the Nation," quoted at p. 43, note, also pp. 41-43.

<sup>3</sup> These are entitled to poor law relief, although not destitute of everything. See pp. xxiv., xxv.



witnesses (except one) before the Inter-Departmental Committee on Physical Deterioration concurred in placing food as the chief among the factors that make for juvenile degeneracy. "Food," says Dr. Eicholz "is the point about which turns the whole problem of degeneracy."<sup>1</sup> This is accepted by the committee as correct.

(2.) *Adequate Out-relief for Children.*—I suggest therefore that the *Local Government Board* should (a) *use its influence in favour of adequate out-relief for children in all cases where out-relief is given to them at all ; and* (b) *advise out-relief in the case of widows with dependent children if the children are being properly brought up.*<sup>2</sup>

I have not suggested any special provision for school children as I hope there will very soon be legislation on this subject.

It is hardly necessary to add that out-relief requires care and discrimination, also supervision. In many unions the guardians and others give much personal help, find

<sup>1</sup> Report, par. 289, p. 56. Dr. Eicholz speaks both of want of food and irregularity and unsuitability of food.

<sup>2</sup> See Chapter VI., pp. 38, 40. This may involve in some cases the giving of dinner tickets to children as is done in Scotland, see Appendix, p. 105. Most people will agree with the first branch of this suggestion. As to the second, the alternative is to offer indoor relief. This would, if accepted, be impracticable owing to the number of children (see p. 45), and the enormous cost involved, and undesirable, as relieving the parents of the trouble of looking after their children. Many parents would refuse, and then the children would starve.

work for the widows and the children as they grow up, and encourage families in habits of temperance and thrift, so that they will not become eventually a burden to the State. The aged and sick are visited and befriended. Of course a sufficient staff of relieving officers is requisite.

As to the effects of drink on disease and destitution and general misery, I cannot do better than quote the words of Mr. John Burns, M.P., now President of the Local Government Board<sup>1</sup>:—

“The tavern throughout the centuries has been the ante-chamber to the workhouse, the chapel-of-ease to the asylum, the recruiting station for the hospital, the rendezvous of the gambler, the gathering ground for the gaol. Alcohol pollutes whatever it touches. It enervates where it does not enslave. It destroys slowly that which it does not degrade quickly. For the individual it is a malignant disease, for the community it is a murrain, for the nation it has become a self-inflicted obstacle to all phases of progress, and it lies athwart the path of personal reformation, municipal progress, and State amelioration; obstructing all the forces of slow remedial reform, and rapid changes to industrial elevation.”

And in another passage in the same pamphlet Mr. Burns says:—

“Dr. C. K. Millard, Medical Officer of Health for Leicester, in 1902, sums up the whole question of alcohol and its relation to the public health, in the following remarkable statement:—‘Speaking as a

<sup>1</sup> “Labour and Drink” (Lecture delivered in Free Trade Hall, Manchester, October 31, 1904, price 1d.), pp. 6, 12.

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medical officer of health, I can say that if I were given the choice of the abolition on the one hand of the evil of drink, and on the other hand of all the other various preventables influencing and affecting public health, on which medical officers are at present concentrating their efforts, I would choose unhesitatingly the abolition of drink as being greater by far than all the others combined.'

"I was informed by a London sanitary inspector this month that he had never served an overcrowding notice except on drinking tenants, and had never issued a notice to abate dirt or nuisance to a teetotaller. The lesson of that is plain. Drunkenness is next door to dirtiness—often in the same house."

It is obvious that Boards of Guardians may use a good deal of influence against drink; but much more can be done by the Town Councils, *e.g.* the Sanitary Committee may issue placards, handbills, and otherwise influence people; the Education Committee can teach children the necessity of temperance and the advantages of total abstinence, the Watch Committee can do much—very much—to prevent drunkenness and excess; in towns where the municipality is the owner of public-houses the Property and Estates Committee can take care to let them on such terms that they may do the least possible harm; the Free Library Committee can supply temperance books and literature. The Council can also regulate the letting of their town hall and other public buildings so as to encourage temperance. They may encourage temperance among their employees,

and they may in many other ways combat the evil connected with alcohol.

(3.) *Temperance.*—I suggest therefore that the Local Government Board should use all its influence against drink ; and for this purpose issue (a) a circular as to the evils connected with the use of alcohol to all sanitary authorities asking their co-operation in favour of temperance ; and (b) some simple and definite instructions as to the evils connected with the use of alcohol<sup>1</sup> and explaining the advantages of total abstinence, for use in all poor-law schools.

*Other Powers of the Government as to Drink.*—It may be suggested that although circulars may do some good they can have little effect in fighting such a gigantic evil as “drink.” It should be remembered, however, that the Government may in many other ways assist, e.g., the Education Department may teach the children the evils connected with alcohol. It is, moreover, essential in making appointments of inspectors, both of the Local Government Board and Education Department, that the Government should appoint men who will vigorously assist in this temperance work. I do not regard this as a test any more than vaccination,<sup>2</sup> and I make no apology for this digression as to

<sup>1</sup> A very feeble circular was issued some time ago. It was a small step in the right direction.

<sup>2</sup> Of course alcohol is one of the chief causes of death, while small-pox causes very few.

"drink," for a very large portion—estimated varying from 25 to 75 per cent.<sup>1</sup>—is drink-caused. The late Lord Shaftesbury has truly said, "So long as you refuse to grapple with the drink problem the problem of pauperism is unsolvable."

(4.) *Treatment of Aged Poor.*—Until old age pensions are obtained *the Local Government Board should encourage adequate out-relief for the deserving aged poor far more effectively than they have hitherto done,*<sup>2</sup> *and should also secure (by order if necessary) reasonable liberty and other privileges for such of them as are necessarily in the workhouse.*<sup>3</sup>

If, however, old age pensions are long delayed, I should suggest a *Resolution*, by House of Commons, in favour of treatment of the aged as suggested above, and a grant out of the public funds to guardians in aid of such out-relief, just as grants have been

<sup>1</sup> "How much pauperism is drink-caused? It is difficult to reply. A committee of the Convocation of Canterbury has stated 75 per cent. Several chaplains of unions support this by giving as their experience that, apart from childhood, old age and sickness, almost the whole of the pauperism to be found in workhouses is drink-caused. Mr. Charles Booth gives 25 to 28 per cent. of poverty as due to this cause; Mr. Alex McDougall, of Manchester, says half the cases he investigated. Though these figures appear to differ, their difference is chiefly owing to the fact that pauperism has a different meaning in each case, and so includes in some cases (*e.g.*, Mr. Booth's) a larger class of persons." C.E.T.S., "Facts and Figures," 1905, pp. 12, 13.

<sup>2</sup> See Chapter VI., p. 38, and also pp. 18, 19, 27, 29, 51.

<sup>3</sup> See pp. 32—37.

made already in aid of salaries of union officials.<sup>1</sup>

It will be obvious from what has been said that the Local Government Board has great influence and some power, but that the main portion of the power is (as might be expected) in the hands of the local administrators.

The ineffectiveness and the apparent "hardness" of many Boards of Guardians is, however, largely due to misconceptions of the law which might be removed by an official statement of the Local Government Board. At the same time some of the old circulars of the Board<sup>2</sup> might be recalled or explained, and some of the excellent and thoughtful replies made in recent years by the Board or its Presidents to questions addressed to them in the House or by Boards of Guardians, might be incorporated.

(5.) I suggest therefore that *the Local Government Board should issue a circular to all Boards of Guardians and relieving officers which shall show the rights<sup>3</sup> of persons who are so poor*

<sup>1</sup> These are paid by the county and county borough councils out of the funds received from the national taxes.

<sup>2</sup> I mean the Local Government Board or its predecessors, the Poor Law Board Commissioners. I have not thought it necessary in this book always to distinguish between them, as the Local Government Board took over the functions of the former bodies.

<sup>3</sup> There is a good deal of misapprehension among guardians and relieving officers which is partly due to little

*as to lack one or more of the necessities of life,<sup>1</sup> to relief, and the obligation of Guardians and of relieving officers to relieve them, and especially as to :—*

(a.) The right of married women to obtain, on their

books written by persons of the "hard" school, who confuse the law with their own ideas of what they think the law ought to be. Some are not inclined to admit that there is any right to relief at all, though they are obviously wrong (see pp. 5, 21, 22, 28, 44, 53, 57). As to the able-bodied, see p. 103.

<sup>1</sup> I have here used the phrase "poor," etc., because the word "poor" is used in 43 Eliz. c. 2 (see pp. 44, 57), and the word "destitute," unless explained, is apt to lead to serious misapprehension. The Local Government Board have frequently said that only persons who are "destitute" are entitled to poor law relief. If it is clearly understood that this includes a person who is destitute of *any one* of the necessities of life (*e.g.*, of food, although he may have a cottage, clothing and furniture, or of medical attendance, though he may have food also), this is only a harmless abbreviation for the poor, etc., as defined by 43 Eliz. c. 2. See p. 57, 90. But it is sometimes understood as meaning that a person must be destitute of *everything* before he has a right to poor law relief. Miss Sophia Lonsdale, who is often cited as an authority on poor law, says: "The poor law ought really to be called 'the law of the destitute,' and to be destitute means, in common talk, to be absolutely without possessions of any kind, though the real meaning is, I believe, to be without a position, without a status." Of course Miss Lonsdale is wrong. It is the *poor* law, and the Local Government Board should make the rights of the poor under it fully understood. In a Circular of 1871 (see p. 44), the Board says that only persons in *actual* destitution are entitled to poor law relief. The word "actual" in the phrase "actual destitution" is an unfortunate term, as it seems to suggest a more definite or acute destitution, but it only means "present" as opposed to "future" destitution. As to what are necessities of life, see Report of Royal Commission on Aged Poor, i., p. xlvi. The guardians are judges both of what is destitution and of what relief is necessary, and who is able-bodied. See evidence of Sir H. Owen in Appendix to 3rd Report of Select Committee on Distress

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own application, medical relief for themselves and children when ill.<sup>1</sup>

- (b.) The right of a woman about to be confined to obtain medical help.<sup>2</sup>
- (c.) The right of a person (who is not a casual pauper) to be admitted to the workhouse, and not put off with the offer of the casual ward.<sup>3</sup>
- (d.) The power of the guardians to give adequate out-relief to the deserving aged poor (see Mr. Chaplin's circular of 1900), and the right

from Want of Employment, Appendix 30, pp. 558, 560; and Minutes of Evidence, No. III., pp. 64, 99, 651—653; "Good Citizenship," pp. 166, 167, 174. [Compare Shaw's Poor Law Orders, by Macmorran, p. 20, note, and Mackenzie, pp. 116, 183.]

Many so-called authorities have said that guardians have nothing "to do with character but only with destitution." This, however, is contradicted by Mr. Chaplin's circular (see p. 38, below), and the statements of Sir James Stansfeld, Mr. Ritchie, and Mr. Walter Long. Mr. Long said "when it was possible the guardians discriminated between the different classes of paupers and did everything they could to lighten the pressure of poverty and to lessen the suffering of the well-behaved" (*Times*, March 20, 1902).

<sup>1</sup> The right of a destitute child to relief is clearly stated in the circular accompanying the Underferd Children's Order, and a destitute wife has a right to relief (see the judgments of the Court of Appeal in the *Merthyr Tydvil* case, cited p. 5, below), just as much as an unmarried woman. Unfortunately there is an idea prevalent that the husband must apply.

<sup>2</sup> It is specially hard that while a mother of an illegitimate child is usually well cared for during a *month* in the labour wards of the workhouse the mother of a legitimate one is *discouraged* from coming for medical help in confinement. In many unions it is always given in the first instance on loan, and at a recent poor law conference a relieving officer of a large city (who was an invited speaker and evidently a man of experience and ability) spoke as if it were a rule of law that it should be so given. The mistake may have arisen from a Poor Law Circular (11 Off. Cir. 44; cited Macmorran 171, note), which should be recalled or "explained."

<sup>3</sup> See "Health of the Nation," p. 13.



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of such poor, in certain cases, to appeal to the magistrates.<sup>1</sup>

- (e.) What relief may be received without loss of parliamentary or municipal vote.<sup>2</sup>
- (f.) The responsibilities of relieving officers as to relief of the destitute and the remedies open to the poor, or those acting on their behalf, in case of neglect or misconduct.<sup>3</sup>
- (g.) The duties of poor law inspectors and of the Local Government Board as to checking breaches of the law.<sup>4</sup>

*The Unemployed.*—A discussion of the powers of the Guardians in connection with the unemployed, and their powers (subject to the control of the Local Government Board) of obtaining land for employment at reasonable wages and for letting allotments

<sup>1</sup> As to out-relief to the aged see pp. 18, 38, 104; and as to appeal to the magistrates, pp. 22, 28. The right of appeal seems to have been forgotten, but might sometimes be used with advantage.

<sup>2</sup> *I.e.*, medical relief, including necessities ordered by the doctor (48 & 49 Vict. c. 46). The legislature, by providing that medical relief shall not disfranchise (except for election of guardians), has placed a wide distinction between this and ordinary relief. It would be well to place indoor relief for the sick on the same footing.

<sup>3</sup> See p. 28 and compare remedies of poor in Scotland, p. 31.

<sup>4</sup> See pp. 28, 30. In *R. v. Baddeley* the Divisional Court quashed a conviction of a pauper for refusing to work, the Court holding that the task was an illegal one (*Tribune*, April 3rd, 1906). Surely it ought to be the duty of the inspectors to see that illegal tasks are not given, and that married couples have their separate accommodation unless they renounce it (see p. 36). It would be well to make it known that a pauper could appeal to the inspector of his own district in case of illegal conduct on the part of the authorities.

to poor and industrious inhabitants, will be found in Chapters IX. and X. (pp. 56—79). This “unemployed” question requires legislation (p. 72), but if obstacles are thrown in the way of this, then a vigorous effort should be made to do what is possible by administration. Meanwhile, a careful watch should be kept over Consolidation or Revision Bills to see that these old Acts are not repealed.

*The Cost of Indoor Relief.*—The cost has increased rapidly of late years, to a great extent in consequence of very desirable improvements. It is still likely to increase largely. The amount of increase and the great cost of in-relief are to some extent concealed by the misleading form of some of the returns of the Local Government Board and their inspectors. These give the cost of (a) in-maintenance, and (b) out-relief. Now the item “in-maintenance” excludes the salaries, rations, and superannuation of the officers and servants, and most of the other establishment charges. In London the cost of “in-maintenance” is not one-half of the cost of in-relief. Yet these are the returns which the guardians and writers in the press usually see, and the cost of in-maintenance is constantly given as that of in-relief, and sometimes arguments to show the economy (?) of indoor over outdoor relief are drawn from the supposed erroneous figures. (6.) *It would be well in future to give*

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*the true cost of indoor* RELIEF. This might tend to economy.

In criticising the Local Government Board it should be clearly understood that I am in no way reflecting upon the recently-appointed President; and I should like to remind the reader that, though the Local Government Board can do much, the guardians can do far more for administrative reform; therefore those who desire adequate out-relief for the aged and other reforms should take care to elect guardians who properly represent their views. Thanks to a recent Act<sup>1</sup> the guardians are popularly elected; and if in some cases parishes with a large population have not their fair share of the representation, on application the County Council or the Local Government Board can award additional guardians.<sup>2</sup>

J. THEODORE DODD.

55, ST. GILES, OXFORD.

*June, 1906.*

<sup>1</sup> The Local Government Act, 1894.

<sup>2</sup> Both have jurisdiction.

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**\* \* For definite suggestions for Reforms,  
see Preface to this (the 2nd) edition, pp. xvii.,  
xviii., xxi., xxiii., xxvii. ; also pp. 29, 32-37,  
40, 42, 43, 49, 54, 72, 73, 80-87.**

1

# ADMINISTRATIVE REFORM.

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## CHAPTER I.

### EARLY STATUTES RELATING TO THE POOR.

THE present system of Parochial Relief is based upon 43 Eliz. c. 2 (1601). But the germ of the system dates from a much earlier period. Indeed, we find it stated in the "Mirrour of Justice"<sup>1</sup> that by a very early Ordinance "the poȝr should be maintained by parsons, rectors of the Church, and by the parishioners, so that none of them die for want of sustenance." Mr. Pashley explains that the parishioners would sustain the poor by paying their tithe and making their oblations to the Church.<sup>2</sup>

The right of the poor parishioner to be supported by his own parish is also recognised by 15 Rich. II. c. 6 (A.D. 1391),<sup>3</sup> which declares that when parish

<sup>1</sup> See (1) Mirror, c. 1, s. 3, quoted by Lord Coke in his 3rd Inst., c. 40, f. 103; by Gould, J., *Steel v. Houghton*, 1 H. Black., 55. See the opinion of Foster, J., *Rex v. Aythorp Rooding*, Burr, S.C. 414.

<sup>2</sup> "Pauperism and Poor Laws," p. 155, *Sed quære*.

<sup>3</sup> Revised Statutes, 2nd edit. (1888), p. 170.

churches were appropriated by licence in Chancery a sum of money was to paid by the appropriators to the poor parishioners. And in 12 Rich. II. c. 7, which condemns the able-bodied beggars to the stocks, the beggars who were unable to work were to abide in the cities and towns where they were dwelling at the time of the proclamation of this statute, "and if the people will not or may not suffice to find them," the beggars were to go to other towns within the hundred, rape, or wapentake, or the towns where they were born, and there continually abide during their lives.<sup>1</sup>

This statute is important as indicating the primary liability of the town and the secondary liability of the hundred, and as foreshadowing the birth "settlement." It is needless for our purpose to repeat the stringent provisions against vagabonds and sturdy beggars which are found in subsequent statutes, but we may state that 27 Hen. VIII. c. 25, directs that the authorities of the parish or hundred shall relieve the poor and keep the "valiant" beggar at continual work. A distinction was clearly drawn between the poor and sick on the one hand, and those "who had their limbs strong enough to labour" on the other hand. The cost was to be defrayed by voluntary alms, collected

<sup>1</sup> Pilgrims begging were to have letters testimonial from their Ordinaries, and University scholars begging, letters from the Chancellor. University students are also specially privileged by 22 Hen. VIII. c. 12, and 14 Eliz. c. 5. There is a tradition in Oxford that the scholars of one of the Colleges have the right to beg on the Banbury Road.

by the mayor, governor, churchwardens, etc., or ten others of the parish, every Sunday.

There is no doubt that in the reign of Henry VIII. poverty and distress must have been much increased by the dissolution of the monasteries and the robbery of the guilds, as well as by other causes. And a savage Act against vagabonds was passed among the earliest statutes of the reign of Edward VI.,<sup>1</sup> which, however, directed the curate of every parish to exhort his hearers to relieve the poor born in their parish. Further provision for the poor was made shortly after;<sup>2</sup> and in the reign of Philip and Mary two able persons were to be chosen in every parish, who should "gently ask" the people at church what they would give weekly to the poor. The clergyman and churchwardens were to "gently entreat" stingy people, and if they would not be persuaded, they were to be reported to the bishop, who was to send for them and to persuade them by charitable means, and so, according to discretion, take order for the charitable reformation of every such obstinate person.

A more effective Act<sup>3</sup> was passed soon after Elizabeth came to the throne. Penalties were imposed on persons failing to *call* the meeting to elect the collectors, and on collectors refusing to serve or to account. Also, if the bishop's exhortation failed, the miserly parishioner had to appear before the General Sessions, who again would try gentle

<sup>1</sup> 1 Edw. VI. c. 3.

<sup>2</sup> 3 & 4 Edw. VI. c. 16.

<sup>3</sup> 5 Eliz. c. 3.

persuasion, but if he, *or she*,<sup>1</sup> was still obstinate, then the justices and churchwardens taxed the stingy person according to their good discretion.

A few years after, a general power to assess the inhabitants was given to the justices of the peace, subject to the right of appeal to the Sessions (14 Eliz. c. 5). And by 18 Eliz. c. 3, stronger provisions were introduced for setting the poor to work and providing stores for that purpose.

By 39 Eliz. c. 3, great changes were made in the Poor Law. It was re-enacted, with a few alterations, by the 43rd Eliz. c. 2, described in the next chapter.

For a full and most interesting account of the above statutes, and of the provision made in this country for the poor, prior to the 43rd Eliz. (1601), the reader should refer to "The Early History of English Poor Relief," by Miss Leonard.<sup>2</sup>

It is enough for our present purpose to have given a very brief outline of the principal statutes relating to the support of the poor, which were passed before 43 Eliz. c. 2.<sup>3</sup>

<sup>1</sup> Mr. Castle, in his able work on "Rating," remarks: "The reference of this Act to the female sex is curious and uncommon. It would appear that the attention of the Legislature must have been expressly directed to the difficulty of getting women to contribute.

<sup>2</sup> Cambridge University Press, 1900.

<sup>3</sup> A good account of these Acts will be found in Mr. Castle's book on the Law of Rating. A summary is also given in the Report of the Commission of 1834, pp. 6-13, and in Mr. Pashley's work. Professor Thorold Rogers remarks that between 1541 and 1601 no less than twelve Acts were passed with the object of providing for relief against destitution, and that they are omitted in most collections of statutes as repealed or obsolete.

## CHAPTER II.

THE STATUTE OF ELIZABETH  
(43 ELIZ. c. 2).

ALTHOUGH in 1834, by the passing of the Poor Law Act of that date, such grave changes were made in the poor law that it was commonly said that a "new poor law" was introduced; as a matter of fact the foundation of the old poor law, 43 Eliz. c. 2, was not repealed, and a large part of that statute is thus in force at the present day.<sup>1</sup> "The class of persons entitled to relief are still (notwithstanding subsequent legislation) the same as those mentioned in section 1 of the Act of 43 Eliz. c. 2."<sup>2</sup> A change was made in the administration of the law rather than in the law itself. To understand the present poor law, therefore, it is necessary to advert with some minuteness to the provisions of the above-mentioned Elizabethan statute.

The first and governing section of the Act directs that the churchwardens of every parish, and four, three or two substantial householders, according to the size of the parish, are to be called *the overseers*. These overseers (with the consent of two or more

<sup>1</sup> The full text of such portions of that Act as are unrepealed will be found in the Appendix, see p. 89, below.

<sup>2</sup> *Att.-Gen. v. Guardians of Merthyr Tydvil*, L. R. [1900], Ch. 516 (Court of Appeal), also reported in 82 L. T. 662.

neighbouring justices) are to set to work (a) the children of parents unable to maintain them, and (b) all persons "having no means to maintain them, use no ordinary and daily trade of life to get their living by"—*i.e.*, people with neither private means nor regular employment. The parish officers are to raise a convenient stock of flax, hemp, wool, thread, iron, etc., to set the poor on work. They are also to raise money for the necessary relief of the lame, impotent, old, blind, and such other among them being poor and not able to work ; also for putting out such children to be apprentices. And the parish officers are to meet at least once a month, in the church, on Sunday afternoon, after Divine Service, to carry out the above arrangements. The money required for these purposes is to be raised by a tax on every inhabitant, parson, vicar and other, and of every occupier in the parish.

It will be at once observed that since this Act great changes have been made in the administration of relief. The guardians of the union, and not the parish officers, are now the ordinary administrators, and they are for many purposes subordinate to the Local Government Board.<sup>1</sup>

<sup>1</sup> By 43 Eliz. c. 2, the churchwardens were *ex-officio* overseers, and the other overseers were appointed by the justices. But by the Local Government Act, 1894, commonly called the "Parish Councils" Act, the churchwardens in rural parishes ceased to be overseers, and the overseers are appointed by the Parish Council (section 5), or in small parishes by the Parish Meeting (section 19, sub-section (5)). In London the powers of the overseers have been transferred to the Borough Councils. As to overseers, see p. 29.

And the union, rather than the parish, is now the unit for the taxation necessary to raise the money required for relief and employment.

But the three main principles of the Act, viz.,

1. Employment for the able-bodied ;
2. Necessary relief for old, sick, etc. ;
3. Industrial education for the children,

are still largely in force, though not altogether carried out fully in practice.

It is, therefore, a grave error to suppose that the guardians have nothing to do with finding employment. But we shall discuss this part of the subject more thoroughly in another chapter.<sup>1</sup>

It is likewise a mistake to say that the guardians have nothing to do with the relief of the poor, but only with the relief of the destitute. The Act never uses the word "destitute": it speaks of the sick and aged poor, and of able-bodied who have insufficient to keep them. It is important to notice that the Act does not require that a person should be bereft of every stick of furniture and have spent his last halfpenny before he comes for relief. This again is a point of some practical importance, as will be seen hereafter.<sup>2</sup> It is only just to the framers of the Statute of Elizabeth to point out that the various evils inflicted on the poor by the law of "settlement and removal" were of later date. There is a frank brutality about 13 & 14 Charles II. c. 12, enacted just after that monarch

<sup>1</sup> See Chap. IX. below, pp. 56, 60, 78.

<sup>2</sup> See Chap. X., pp. 44, 58, 60, 76, and Pref. p. xxiv.



was "restored," which renders it worthy of special remark.

The Act states that "by reason of some defects in the law, poor people are not restrained from going from one parish to another, and therefore do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes<sup>1</sup> to build cottages, and the most woods for them to burn and destroy; and when they have consumed it, then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks, where it is liable to be devoured by strangers"; and it enacts, "That it shall be lawful, upon complaint made by the churchwardens or overseers of the poor of any parish to any justice of the peace within forty days after any such person or persons coming so to settle as aforesaid in any tenement under the yearly value of £10," for two justices to order the *removal* of any persons *likely to be chargeable*,<sup>2</sup> by warrant to the parish where they were legally settled. Mr. Pashley (p. 225) remarks that "the origin of a great part of those evils which the poor laws have entailed is to be found in this statute."

<sup>1</sup> It will be observed that the commons and wastes were still so much public property, *in fact* (whatever their legal position), that the poor could build on them.

<sup>2</sup> It would seem from the wording of the Act that the justices could order the removal of any person coming into a house of annual value less than £10, if the parish authorities considered him likely to be chargeable, without further enquiry. See Nicholls, i. 296.

The preamble of an Act of 1795<sup>1</sup> well indicates the evils connected with the Restoration statute. It says that many industrious persons chargeable to their parish merely for want of work there, would in any other place where sufficient employment is to be had maintain themselves and their families without being burthensome to any parish, and that such poor persons are for the most part compelled to live in their own parishes, and not permitted to inhabit elsewhere, under pretence that they are likely to become chargeable to the parish into which they go for the purpose of getting employment, although the labour of such poor persons might in many instances be very beneficial to such parish.

Mr. S. G. Grady observes, in his interesting little book on "The Equalisation of the Rates,"<sup>2</sup> that £10 a year<sup>3</sup> in 1662 would be equal to £50 a year in 1862. The effect of this Act was to tie the labourers to their native villages and turn them into serfs, as they could not go to any other place to seek employment or better wages. This cruel Act was modified in 1795 by the above-mentioned statute,<sup>4</sup> which only allowed the parish officers to remove to their own parish persons who had actually come on the rates.

The end of the eighteenth century and the earlier

<sup>1</sup> 35 Geo. III. c. 101 ; Pashley, p. 253.

<sup>2</sup> Wildy & Sons, Lincoln's Inn Archway.

<sup>3</sup> Persons coming into a house of £10 annual value were exempt from this removal (see p. 8).

<sup>4</sup> 35 Geo. III. c. 101.

portion of the nineteenth must have been about the most evil time which has ever fallen to the lot of the English labourers. The price of bread, when not kept up "naturally" by war, was made dear by Protection. The commons which the people believed to belong to them, although the lawyers and the squires said they did not, were being rapidly enclosed. Somehow, dear bread did *not* mean high wages for the labourers, although it did spell high rents for the squires and goodly tithes for the parsons. But the rates rose apace, and a Commission was appointed (as they state)—

"to make a diligent and full enquiry into the practical operation of the Laws for the Relief of the Poor in England and Wales, and into the manner in which those laws are administered, and to report our opinion whether any and what alterations, amendments, or improvements may be beneficially made in the said laws, or in the manner of administering them, and how the same may be best carried into effect."<sup>1</sup>

The work of this Commission will be the subject of the following chapter.

<sup>1</sup> Report, p. 1.

# CHAPTER III.

## THE POOR LAW COMMISSION OF 1834

THE Report of this Commission is no doubt a very able and valuable one, but it has been a good deal misunderstood, and in some quarters perhaps portions of it a little overrated, while some most important advice of the Commissioners appears to have been quite overlooked.

The Commission was in no sense a representation of all classes. The following is a list of the signatories, the two first being Lord Bishops:—

C. J. London, J. B. Chester,<sup>1</sup> W. Sturges Bourne, Nassau W. Senior, Henry Bishop, Henry Gawler, W. Coulson, James Traill, Edwin Chadwick.

But nothing indicates more clearly that the Commissioners were of the comfortable—the very comfortable—class than their most absurd definition of poverty, viz., “the state of one who in order to obtain a mere subsistence *is forced to have recourse to labour.*”<sup>2</sup>

<sup>1</sup> Sumner, afterwards Archbishop of Canterbury.

<sup>2</sup> Report, p. 227. The whole passage is as follows: “But in no part of Europe except England has it been thought fit that the provision, whether compulsory or voluntary, should be applied to more than the relief of *indigence*—the state of a person unable to labour, or unable to obtain, in return for

It will be seen that, according to this brilliant specimen of definition, almost the whole of the labouring and artisan and a great portion of the professional and trading classes are "in poverty." All are in "poverty" save those who have inherited, earned, or otherwise acquired "private means," or are Government pensioners or other favourites of fortune.

Again, the evidence they took, or, at all events, thought it worth while to record in their Report, was almost entirely of men of the upper and middle classes, with a very strong element of the J.P. and parish officer.<sup>1</sup>

The Commissioners, no doubt, found a most disastrous condition of affairs, not in consequence of the carrying out of the statute of Elizabeth, but because of open disobedience to its provisions. Immediately after their historical summary they state (p. 13):—

"It is now our painful duty to report that in the greater part of the districts which we have been able to examine, the fund which the 43rd of Elizabeth directed to be employed in *setting to work* children his labour, the means of subsistence. It has never been deemed expedient that the provision should extend to the relief of *poverty*; that is, the state of one who, in order to obtain a mere subsistence, is forced to have recourse to labour."

<sup>1</sup> The Commissioners state (p. 5) that the evidence in their Appendix was derived from many thousand witnesses, including artisans and peasants. In the portion they print as a supplement to their Report I can only find one person who is described as such, viz., John Denson of Waterhead, who is described as a labouring gardener, and appears to have written "The Peasant's Voice." Some of the witnesses are not described.

and persons capable of labour, but using no daily trade, and in the necessary relief of the impotent, is applied to purposes opposed to the letter, and still more to the spirit of that law, and destructive to the morals of the most numerous class, and to the welfare of all."

It is essential here to notice that not the statute of Elizabeth, but neglect of it, was the cause of the evils of the old poor law.

The Commissioners add (p. 14) :—

"The great source of abuse is the outdoor relief afforded to the able-bodied on their own account, or on that of their families. This is given either in kind or in money."

When work was given it was often a mere sham. Rates were often paid to the able-bodied in aid of low wages. The workhouses were in many cases horrible places, with no government or classification, and subject to great maladministration; and the indoor relief was as bad as the outdoor. Rates were enormous, bastardy encouraged, all independence of the poor sapped. The state of things, if we can rely upon the Commissioners, was bad both for rich and poor. Certainly no one who has any knowledge of the subject would wish to bring back the old poor law, or, rather, the old administration of the poor law.

The general right of appeal to the magistrates for relief, or additional relief, which the statutes subsequent to 43 Eliz. gave—even to the able-bodied in aid of wages—is said to have been one great source of evil.<sup>1</sup>

<sup>1</sup> See Report, pp. 118-151.

We now propose to set out in detail the principal formal "recommendations" of the Commissioners, and to add a few of their remarks bearing on the question of the relief of the aged poor and sick. We shall quote from the edition of the Report, which was published "by authority" in 1834 (London: B. Fellowes, Ludgate Street) in the form of a book. The recommendations of the Commissioners were twenty-two in number, so it will be needful to summarise those which bear least on the present situation.<sup>1</sup>

#### ABLE-BODIED.

Clause I deals with the mode of relief to the able-bodied and their families :—

"That except as to medical attendance, and subject to the exception respecting apprenticeship hereinafter stated, all relief whatever to able-bodied persons or to their families, otherwise than in well-regulated workhouses (*i.e.*, places where they may be set to work according to the spirit and intention of the 43rd of Elizabeth), shall be declared unlawful, and shall cease, in manner and at periods hereafter specified; and that all relief afforded in respect of children under the age of sixteen shall be considered as afforded to their parents" (p. 262).

This is the keynote of the Report—*indoor relief for the able-bodied*. In the so-called "work"-houses which existed before 1834 there was usually an "absence of classification, discipline, and employment" (p. 57).

<sup>1</sup> The full text is given in the Appendix below, p. 89.

The second clause deals with the appointment of

### A CENTRAL BOARD.

"The appointment of a central board to control the administration of the poor laws, with such assistant commissioners as may be found requisite; and that the Commissioners be empowered and directed to frame and enforce regulations for the government of workhouses, and as to the nature and amount of the relief to be given and the labour to be exacted in them, and that such regulations shall, as far as may be practicable, be uniform throughout the country" (p. 297).

The earlier part of this recommendation has been carried out by the successive appointments of the Poor Law Commissioners, the Poor Law Board, and the Local Government Board, and by various "Orders," as to indoor and outdoor relief, etc. The Report speaks elsewhere of the advantages of giving employment (p. 51), and approves of employment of poor in cleansing streets (p. 298) and in spade husbandry (p. 299). Mr. Chamberlain's circular of 1886 with regard to the Unemployed, re-issued by Mr. H. H. Fowler in 1892,<sup>1</sup> is couched much in the spirit of these latter suggestions.

The Commissioners propose, in recommendation No. 3, that the central board shall be empowered to "incorporate" any number of parishes for providing new workhouses for the district, etc. (p. 314).<sup>2</sup> By "incorporation" the Commissioners mean the

<sup>1</sup> Now Sir H. Fowler.

<sup>2</sup> One great object of this was to enable the inmates to be classified, and each class to receive appropriate treatment. "The old might enjoy their indulgences." See *id.*, p. 307.



formation of "unions" of parishes, and no doubt the making of each such union into a corporation.

No. 4 of the recommendations advises a general and uniform system of accounts (p. 319).

Clause 5 proposes that the central board be empowered to incorporate *parishes*<sup>1</sup> for the purposes of appointing and paying permanent officers, and for the execution of works of public labour (p. 326).

#### PAID OFFICERS.

Clause 6.—The central board be directed to state the general qualifications which shall be necessary to candidates for paid offices connected with the relief of the poor, to recommend to parishes and incorporations proper persons to act as paid officers, and to remove any paid officers whom they shall think unfit for their situations.

The parishes have for the most part been grouped into "unions," though in London and elsewhere there are still some large parishes which are not grouped but are treated as unions. The paid officers of the guardians are in many cases only appointed or dismissed by the guardians subject to the consent of the Local Government Board.

Clauses 7 to 13 deal with various powers of the central board and regulations. No. 7 (p. 330) advises, as to relief, that the central board should direct that parochial consumption be supplied by tender and contract, with free competition; and

<sup>1</sup> This proposal has, after the lapse of sixty years, been adopted by the "Parish Councils Act," which incorporates the parish council (section 3, sub-section 9), or in small parishes the chairman of the meeting and overseers (section 19, sub-section 6); but the Act gives no poor-law powers to the parish.

## RECOMMENDATIONS OF COMMISSION. 17

No. 8 (p. 331) that the board should act as public prosecutors in cases of embezzlement. No. 9 (p. 337) recommends that parishes should be empowered to treat relief to able-bodied or their families as loans, and that wages should be attachable. Such relief is now not unfrequently given as a loan. By No. 10 the board was to make regulations as to apprenticing, and to enquire into the effect of the apprenticeship laws (p. 338). The board was also to frame and enforce regulations as to the relief of vagrants and discharged prisoners (No. 11, p. 340). The central board was to make annual reports and promote bills for amendments (No. 12, p. 341), and appoint its own officers (No. 13, p. 341).

### LAW OF SETTLEMENT.

Clause 14.—The Commissioners recommended that settlement by hiring and service, apprenticeship, purchasing or renting a tenement, estate, paying rates, or serving an office, be abolished (p. 342).

They advised (No. 15) that in general the settlement of legitimate children under sixteen should follow that of the parents, and then revert to birth settlement. They objected strongly to settlement by residence (p. 343). They recommended that in cases of doubt the place where a person should have been first known to have existed should be deemed his place of birth (No. 16, p. 346).

### BASTARDY.

They advised that an illegitimate child till sixteen should follow its mother's settlement, and the

mother should be bound to support it (Nos. 17, 18, pp. 346, 347). The mother was not to be removable or punishable (No. 19, p. 349); and they advised that the putative father should not be chargeable or punishable (No. 21, p. 351).<sup>1</sup>

#### EMIGRATION.

The final recommendation of the Commissioners was that the vestry should be empowered to pay the expenses of emigration of any persons having settlements in the parish (No. 22, p. 357). This does not seem to be limited to paupers only, and was no doubt designed to *prevent* pauperism.

#### RELIEF OF THE AGED.

It will be seen by the above that the Commissioners make no formal recommendation, either for or against out-relief to the aged poor. Indeed, the Report (p. 42) contains the following statement, which seems rather in the favour of out-relief in some such cases.

“The outdoor relief to the impotent (using that word as comprehending all except the able-bodied and their families) is subject to less abuse. The great source of poor law maladministration is the desire of many of those who regulate the distribution of the parochial fund to extract from it a profit to themselves. The outdoor relief to the able-bodied, and all relief that is administered in the workhouse, afford ample opportunities for effecting this purpose; but no use can be made of the labour of the aged and

<sup>1</sup> This is another absurdity of the Commissioners.

sick, and there is little room for jobbing if their pensions are paid in money. Accordingly, we find that even in places distinguished in general by the wanton parochial profusion, the allowances to the aged and infirm are moderate."

There is no law or order of the Local Government Board, or of its predecessors, against out-relief to those who from old age or physical or mental defects are not able-bodied. It is wholly in the discretion of the guardians of each union to give or refuse out-relief in such cases. The Commissioners raise no objection to outdoor relief of the sick, but say that medical attendance seems in general to be adequately and economically supplied (p. 43).

#### USEFUL EMPLOYMENT.

Notwithstanding these recommendations of indoor relief for the able-bodied, they strongly advise that "useful employment," such as road-making, drainage, etc., should be given to the able-bodied. "One of the first preliminary measures must be the preparing for the able-bodied more of this employment than we believe that they will accept." The Commissioners lay great stress on useful employment, and speak with disgust of useless labour, such as fictitious errands with baskets full of stones, as "pernicious," and state that they ought to be prevented. (Yet the modern Local Government Board approves of test labour, with useless picking of oakum and equally profitless breakage of stones.) The Commissioners declare:—

"The association of the utility of labour to both

parties, the employer as well as the employed, is one which we consider it most important to preserve and strengthen; and we deem everything mischievous which unnecessarily gives to it a repulsive aspect. At the same time, we believe that in extended districts the requisite sources of employment will be easily found. The supply of the articles consumed in work-houses and prisons would afford a large outlet for the manufactures carried on in the house; and, with respect to outdoor employment, it is probable that there are few districts to which such evidence as that contained in the following extracts would not be applicable" (p. 324).

One of these extracts is from the evidence of Mr. Winkworth, overseer of St. Mary's, Reading, who advocates drainage of the town and road-mending; and the other is from that of the Rev. James Randall, rector of Binfield, Berks, who advises the conversion of impassible lanes into good roads.

So much has been said against the "old poor law" that it is well to remember that there is another side to the question. It is true, as Miss Leonard in the work quoted above (p. 4) has pointed out, that a fairly effectual system of relieving the destitute by public authority has had in England a continuous existence since the 17th century, and that until the poor laws were successfully administered, the country was repeatedly disturbed by rebellions, and constantly plagued by vagrants. She rightly says<sup>1</sup>:—

"We are apt to consider the facts that we are a law-abiding people, and that we have not suffered

## LEGISLATION AFTER COMMISSION. 21

from violent revolutions, to be entirely due to the virtues of the national character and the excellence of the British Constitution ; but before the introduction of our system of relieving the poor, we were by no means so free from disorder. The poor laws themselves were at least partly police measures, and until they were successfully administered the country was repeatedly disturbed by rebellions, and constantly plagued by vagrants."

It should also be remembered that the poor law of Elizabeth had been altered in many respects by Parliament before 1834, and that the evils of the poor law of that date were mainly due to much more recent legislation and to thoroughly bad administration.

### LEGISLATION CONSEQUENT ON THE COMMISSION.

Shortly after the Commissioners had reported, a Bill, drawn to a large extent on the lines recommended by them, was introduced into the House of Commons. It is manifest from the debates that there was no intention of repealing or superseding the Statute of Elizabeth. Indeed, the Chancellor of the Exchequer said<sup>1</sup> :

"The Bill does nothing more than bring back the law of the country to what it was created by the 43rd of Elizabeth."

The right of the poor to necessary relief<sup>2</sup> was admitted on all hands ; and it is clear from the discussions that there was no intention on the

<sup>1</sup> May 26th, 1834.

<sup>2</sup> See Preface, pp. xxiv., xxv.

part of Parliament of taking it away, or of abolishing out-relief by the Bill.

It took away the general power of a single justice to order out-relief, but out-relief may still be ordered by two justices, in the case of adult persons who are from old age or infirmity of body wholly unable to work, after hearing the guardians in opposition.<sup>1</sup> Also, in some cases of an urgent character a single justice may order relief.<sup>2</sup>

The new Act made a variety of important changes, including provisions rendering a man responsible for relief given to his wife and children under the age of sixteen,<sup>3</sup> and a widow similarly responsible in the case of her young children.

It provided for the formation of unions of parishes, and established a permanent Poor Law Commission, with large powers of superintending the administration of the poor law which will be explained in the next chapter. These Commissioners were empowered to restrict the giving of out-relief to the able-bodied<sup>4</sup> and their families, but not in the case of any others.

<sup>1</sup> 4 & 5 Will. IV. c. 76, s. 27. *Reg. v. Totnes Union*, (1845) 7 Q. B. 690; 9 J. P. 584.

<sup>2</sup> A justice can order temporary relief in articles of absolute necessity but not in money in case of sudden and urgent necessity to poor persons not settled nor usually residing in the parish; also medical relief (only) to any parishioner or out-parishioner, where any case of sudden and dangerous illness may require it, 4 & 5 Will. IV. c. 76, s. 54. These are the only cases where justices can order relief.

<sup>3</sup> Relief to a child under 16 is to be deemed relief to the parent. 4 & 5 Will. IV. c. 76, s. 56.

<sup>4</sup> See Appendix, p. 103.

## CHAPTER IV.

THE POWERS OF THE LOCAL  
GOVERNMENT BOARD.

IN accordance with the suggestions of the Commission of 1834, a body of Poor Law Commissioners was constituted a central authority to supervise the administration of the poor law, with power, by means of General Rules, to alter the law itself to a considerable, though still only to a limited, extent. The Commissioners afterwards became the Poor Law Board, and finally, in 1871,<sup>1</sup> the Poor Law Board was dissolved, and all its powers were transferred to the Local Government Board.

The power to make rules, etc., given by the Poor Law Amendment Act, 1834,<sup>2</sup> to the Commissioners, was transferred, by the Poor Law Board Act, 1847,<sup>3</sup> to the Commissioners under that Act, and thence to the Local Government Board.

These rules are of a formal character. If duly made and not *ultra vires* they become law, just as

<sup>1</sup> By 34 & 35 Vict. c. 70, ss. 2, 7. This transfer of powers should be remembered in the perusal of 4 & 5 Will. IV. c. 76, 5 & 6 Will. IV. c. 69, and the later poor law statutes.

<sup>2</sup> 4 & 5 Will. IV. c. 76.

<sup>3</sup> 10 & 11 Vict. c. 109, s. 14.



much as a statute, with the important exception that they need no statute to repeal or alter them.

The present poor law is contained in a large number of somewhat incoherent statutes, in General Orders of the Local Government Board, or of its predecessors (the Poor Law Board or the Poor Law Commissioners), and in special orders of the same bodies addressed to some particular union, or applicable to some temporary emergency.

In addition to this already formidable mass of law, there is another mass of official circulars, letters, etc., from the Local Government Board and its predecessors, which find a place in the law books studied by boards of guardians and their clerks, and which, though often couched in terms of "suggestion," may easily mislead guardians into thinking that obedience is due to what are, in fact, only "pious opinions."

We propose to show now what are the principal powers of the Local Government Board with reference to the poor, and how these powers arise.

I. They are authorised by section 15 of the Poor Law Amendment Act of 1834 to make rules:—

- (a) For the management of the poor;
- (b) For the government of workhouses and the education of children *therein*;
- (c) Apprenticing the children of poor persons;
- (d) Control of guardians, etc., as to management or relief of poor, and as to accounts

and contracts, or to any expenditure for the relief of the poor ;

- (e) For carrying the Act into execution in all other respects.

Then the Local Government Board may rescind, alter, or suspend such rules. This really makes the Local Government Board very powerful with respect to poor-relief ; only the Act does not enable the Board "to interfere in any individual case for the purpose of ordering relief."<sup>1</sup>

II. The Local Government Board can prescribe the dietary and control the employment of those in the workhouse (see section 21).

III. By section 25 the Local Government Board may order workhouses to be enlarged or altered, according to such plan and in such manner as they shall deem most proper for carrying the provisions of the Act into execution.

IV. By section 26 they may unite parishes into "unions," and issue rules for *classification* of the poor.

V. By section 42 of the same Act the Local Government Board may make rules :—

- (a) For the government of workhouses ;
- (b) The nature and amount of relief to be given ;  
and
- (c) The nature and amount of the labour to be exacted therein ;
- (d) The preservation (in the workhouses) of good order.

<sup>1</sup> This is different in Scotland. (See p. 30 below.)

The Local Government Board may rescind, alter, or suspend these rules. Rules at the time of issue affecting more than one union are to be considered "general rules."

VI. By section 46 the Local Government Board may by order direct the guardians to appoint such officers as the Local Government Board may think fit. The Local Government Board may fix their duties and *salaries* and term of office, and may remove officers (section 48).

VII. By section 52 of 4 & 5 Will. IV. c. 76, the Local Government Board is authorised to declare by rules what out-relief may be given to able-bodied persons and their families, and to what class of persons and *on what conditions* such out-relief may be afforded.<sup>1</sup> Relief given contrary to such regulations is to be disallowed. The guardians may depart from these regulations in emergency, but must report their departure to the Board within fifteen days.

If the Local Government Board approves, *or* if the relief shall have been given in food, temporary lodging, or medicine, it shall not be subject to disallowance.

Besides the above general powers, the Local Government Board has a variety of special powers of making regulations, *e.g.*, as to casual paupers,<sup>2</sup> expenses of guardians attending poor law conferences, expenses incurred in conveyance of

<sup>1</sup> Some Rules have been made, see Appendix, p. 103.

<sup>2</sup> 34 & 35 Vict. c. 108, s. 6 ; 45 & 46 Vict. c. 36, s. 4.

paupers, etc. And the Local Government Board has still further powers which can only be learned by a careful perusal of a multiplicity of statutes.

The practical result of all these powers is that the Local Government Board might make the poor law infinitely more harsh than it is at present ; or, on the other hand, if the old people *are* brought into the " house," the Local Government Board may direct such classification, treatment, and liberty, that they would be in the position of indoor pensioners rather than paupers, and the workhouses would resemble well-ordered almshouses or cottage-homes for the aged.<sup>1</sup> They could insist on proper accommodation in overcrowded workhouses, unless the guardians will give adequate out-relief for some classes of the poor. They could insist on their inspectors making fuller reports on the condition of the workhouses and their inmates ; and then the Local Government Board could publish such reports, and so stimulate reform.<sup>2</sup> Unfortunately, some of the old poor law circulars of the Board and its predecessors, and sometimes the words of

<sup>1</sup> It probably could not *order* pensions for aged poor. It might, however, so carefully prescribe the indoor relief to be given to deserving aged poor that the guardians would prefer to give out-relief.

<sup>2</sup> I am aware that sometimes it is difficult for a government authority to compel local authorities to do their duty ; but at least the Local Government Board and their inspectors should, in their reports, publish the facts, and in a democratic country *publicity* often means reform. Great improvements have taken place in most workhouses of late years, and much has been done by the inspectors and the Board itself in urging such improvements.

the inspectors have been (however unintentionally) *against* the effective and satisfactory relief of the poor.<sup>1</sup>

#### REMEDIES OF THE POOR IN ENGLAND.

It will be seen from what has been said above (pp. 21, 22) that the rights of the poor are undoubted and very considerable, but the direct remedies for obtaining those rights, if denied by the guardians and relieving officers, are, in English law, incomplete. Only in some exceptional cases can the poor person appeal to the magistrate.<sup>2</sup> It is true that a destitute person may in theory be entitled to a *Mandamus* to the guardians or their officers to relieve him<sup>3</sup>; but this is obviously a useless remedy. If a relieving officer unlawfully refuses to give necessary relief, and in consequence death ensues, he is guilty of manslaughter, or if serious injury follows, he may be prosecuted for misdemeanour.<sup>4</sup> This again usually affords no remedy.

#### DUTY OF LOCAL GOVERNMENT BOARD TO SEE THAT THE POOR ARE PROPERLY TREATED.

But, as Messrs. Aschrott and Preston-Thomas point out—

“The relieving officers and the workhouse master are not only under the control of the guardians, but

<sup>1</sup> See pp. 29, 32, 33, 38-44, 49, 52, 53; Preface, p. xxv.

<sup>2</sup> P. 22; above.

<sup>3</sup> Aschrott and Preston-Thomas, p. 171; *Times*, Nov. 9, 1864.

<sup>4</sup> See case of a prosecution of a relieving officer of Whitechapel in 1872, set out in the “Poor Law Officers’ Annual,” 1905-6, p. 81.

are paid officers liable to dismissal by the Local Government Board in case of any neglect of duty.”<sup>1</sup>

These writers add :—

“The practical exercise of the controlling powers of the Local Government Board depends in a great degree on the inspectors. By their eyes and ears the board is made acquainted with any matter of complaint and orders the requisite remedy.”

As indicated above, the Local Government Board and inspectors exercise their influence to a considerable extent in favour of the poor in the workhouses, but they might do the same for the outdoor poor, who are greater in number and presumably in many cases specially deserving.

It is not suggested here that the Local Government Board shall dismiss or censure relieving officers. The present writer's experience is that they are kind-hearted, sensible men ; but he could wish that the central board and the inspectors would use their influence in favour of out and medical relief in proper cases. The treatment of the indoor poor has been greatly improved through the advice and influence of the inspectors, and they could in like manner assist the outdoor poor also. The relieving officers would loyally carry out the wishes of the Local Government Board.

As a matter of fact the influence of the inspectors generally appears to be used *against* out-relief, and in some cases even against medical out-relief ; and,

<sup>1</sup> In case of urgency the master of the workhouse is bound to admit a destitute person. An overseer is bound to give relief in “cases of sudden *and* urgent necessity” (section 54).

until Mr. Chaplin's Circular of 1900, the influence of the Board itself was against out-relief.

Some of the inspectors have, however, spoken in favour of adequate out-relief being given *if* out-relief is given at all, and the Local Government Board has taken the same view. It must be remembered, however, that the Poor Law Amendment Act of 1834 gives no power to the Local Government Board "to interfere in any individual case for the purpose of ordering relief" (section 15), though the board may censure or punish any of its officers who unlawfully refuses it.

#### REMEDIES OF THE POOR IN SCOTLAND.<sup>1</sup>

In Scotland a poor person who is refused all relief can apply to the Sheriff, who can and frequently does make an order for relief. Also if the person considers his relief inadequate or has only the offer of the "house" when he wants out-relief, he has the right of appeal to the Scotch Local Government Board. In strict law the able-bodied has no right to poor-law relief in Scotland, but practically in cases of great destitution relief is usually given by the Parochial Council (which corresponds to the board of guardians), or is ordered by the Sheriff, in which latter case the Parochial Council is bound to comply. A great deal of out-relief is given by the Scotch. They say they find it better and cheaper to give it, and they give a higher scale than we have usually found in England.

<sup>1</sup> As to Scotland, see also Appendix, p. 105.

## CHAPTER V.

### HOW THE LOCAL GOVERNMENT BOARD MAY SECURE BETTER TREATMENT OF SUCH AGED POOR AS ARE IN WORKHOUSES.

THE proportion of able-bodied persons in the workhouses of England is very small when considered in relation to the whole number of persons relieved in the workhouse. Almost all the inmates are either—(1) aged ; (2) sick ; (3) children ; or (4) incapable of work through bodily or mental infirmity or temporary disablement. The statistics on the subject will be found in the annual reports of the Local Government Board.<sup>1</sup>

While we look forward with hope to a universal pension scheme for the aged, we are well aware that under the most favourable circumstances it will be some years before it is at work, and that the old people now alive will have previously passed away ; and therefore the question arises, Can anything be done by administrative order to improve the condition of the aged poor who are in the workhouse ?

<sup>1</sup> I believe that the Local Government Board consider a man with a broken leg or scarlet fever as "able-bodied" if he is not permanently disabled. This system of classification seems to lessen the value of their statistics.



## CLASSIFICATION.

The Poor Law Commissioners, in their Report of 1834 (p. 307), in enumerating the various advantages of classification, say : " Each class might thus receive an appropriate treatment ; *the old might enjoy their indulgences.*"

I suggest that the Local Government Board should *order* that greater liberty, privileges and comfort should be allowed to *aged* paupers of good character, and that they should, as far as possible, rather be treated as inhabitants of a State almshouse, or as " State pensioners,"<sup>1</sup> than as persons who have committed crime.

## MORE LIBERTY.

The aged inmates of workhouses should have reasonable liberty to go out in fine weather. At present, a pauper is like a prisoner—he has no right, while he remains a pauper, to go outside the workhouse and yard or garden (if any) ; but this deprivation of liberty may be, and is to some extent, mitigated ; for by Article 116 the guardians may by any general or special direction authorise the master to give a pauper temporary leave of absence. By using this power generously and judiciously the captivity of the poor may be greatly alleviated. But the guardians were absolutely *discouraged* from giving reasonable liberty

<sup>1</sup> See Poor Law Reform Bill, introduced some years ago by Sir Alfred Thomas, M.P., and drafted by the present writer.

by an idiotic instructional letter of the Poor Law Commissioners.<sup>1</sup>

The attention of Sir Henry Fowler, when President of the Local Government Board, was more than once called to this silly instruction; and ultimately he issued a circular<sup>2</sup> advising reasonable liberty for the aged and infirm during good conduct. Happily, many boards of guardians do allow the aged poor to go out at intervals of a month, fortnight or week, but it would be well to give them the *right* to reasonable liberty during good conduct.

#### VISITS FROM FRIENDS.

Another privilege which might be granted to the deserving aged poor is that of receiving more frequent visits from their friends.

The Orders of the Poor Law Commissioners on this subject are absurd, for they only allow a pauper to be visited by permission of the master or matron, subject to such conditions and restrictions as the guardians may prescribe; and further direct that the interview "shall take place in a room separate from the other inmates of the workhouse, and in the presence of the master, matron, or porter, except where a sick pauper is visited."<sup>3</sup>

It will be observed that the aged pauper has not

<sup>1</sup> Instructional letter, February 5th, 1842; Eighth Annual Report, Poor Law Commissioners, p. 115; Shaw's "Poor Law Orders," p. 120.

<sup>2</sup> January 29th, 1895.

<sup>3</sup> General Consolidated Order 24th July, 1847, Article 118; Shaw's "Poor Law Orders," p. 121.

only no *right* to go out to see anybody ; he has also no right to have anyone in to see him. In fact, he has no more "right" in either respect than a prisoner in gaol for crime.

The Local Government Board should repeal this Article, and give to the well-conducted aged pauper the right to receive a visitor at least once a month. Moreover, the provision that the master, etc., *must* be present, and that the visit *must* solemnly take place in a separate room, should be abolished. It is obvious that the business of the workhouse will seldom allow the special attendance of the master, etc., and that a private room cannot be very often allowed to each pauper ; hence the visits must, if the Order is observed, be few and far between. Why should not there be in *every union* regular visiting days to the wards for the aged, and simple regulations like those usual in well-managed hospitals ?

#### NON-PAUPER CLOTHING.

Intimately connected with the liberty to go into the fresh air and see friends is the question of dress. By Article 95<sup>1</sup>, as soon as a pauper is received, "he shall be clothed in a workhouse dress." But the guardians decide as to the material. Article 110<sup>2</sup> : "It need not be uniform either in *colour* or materials."<sup>3</sup> The workhouse stamp is not to be publicly visible. Hence the

<sup>1</sup> Shaw's "Poor Law General Orders," p. 98.

<sup>2</sup> *Ibid.*, p. 114.

<sup>3</sup> Instructional Letter, February 5th, 1842.

guardians *may* clearly provide clothing for the aged poor which will not be distinctively of a pauper type, and the Local Government Board disapproves of causing paupers to wear a distinguishing dress as a mark of disgrace<sup>1</sup>; but the Local Government Board ought to allow the aged to wear any suitable dress their friends may provide, and also *order* that the dress supplied for the aged by the guardians shall not be dissimilar to ordinary civilian clothing.

## BRIGHTEN THE WORKHOUSE.

Attention may be called to the following subjects :—

1. Supply of newspapers to workhouses ; 2. Workhouse library ; 3. Spectacles for aged poor ; 4. Decoration of the walls of the workhouse ; 5. Entertainments ; 6. Visitation ; 7. Singing Band ; 8. The Brabazon or Meath Employment Scheme ; and, 9. Inmates' afternoon out.<sup>2</sup>

One of the greatest hardships connected with workhouse life is frequently its extreme *dulness*.

It would be obviously undesirable, and indeed impossible, for the Local Government Board to lay down rules or to make orders as to the above matters. But they might well direct their inspectors to make systematic reports<sup>3</sup> on the means taken

<sup>1</sup> Mackenzie's "Poor Law Guardian," p. 153.

<sup>2</sup> The Local Government Board should permit the guardians to give the inmates food for a meal outside the workhouse when they go out for a day.

<sup>3</sup> They do often make informal and useful suggestions, and much has been done of late years.

to cheer up the aged poor in each workhouse ; these reports should be made public, and humane and successful treatment in workhouses noted, so that the guardians of badly-managed workhouses might be induced to improve. Often in workhouses, as elsewhere, much misery is occasioned simply by "want of thought."

#### MARRIED COUPLES.

When both are over sixty years of age, *according to law* they cannot be compelled to live separate.<sup>1</sup> But the guardians may, by their consent, separate them ; and in practice the guardians do usually separate them, and asseverate that the separation is made by consent. The Local Government Board ought to provide that such consent should be taken in writing before some magistrate, county councillor or other person independent of the poor law, and that first an offer be made to them of living together in the workhouse in some reasonably comfortable apartment. At present the consent may be taken verbally and anyhow, and it is impossible to say whether any paupers may have been bullied or cajoled into giving consent, or whether any who refused their "consent" would have a comfortable life.

It is believed that the Local Government Board does not even require its inspectors to try to find out whether the married couples are separated with or

<sup>1</sup> 10 & 11 Vict. c. 109, s. 23.

without their own consent, or how the consent has been obtained.

### THE INSPECTORS AND THEIR REPORTS.

The Local Government Board should insist upon their inspectors making detailed reports<sup>1</sup> as to the condition of each workhouse. If the bad and mediocre workhouses were brought up to the level of the good ones, an enormous boon would be given to the aged, sick, children, and other inmates.

Both for the sake of the old people and the children, and for the women of all ages, Mr. Burns should appoint some women inspectors of workhouses.<sup>2</sup>

<sup>1</sup> Most of the present published reports are usually quite inadequate.

<sup>2</sup> It is fair to add that Mr. H. Fowler's circular of January, 1895, urged upon the guardians improvements as to classification, nursing, care of children and imbeciles, unobjectionable clothing of inmates on leave of absence, etc., but this circular was not an *order*, so the guardians can neglect its excellent suggestions. Subsequently some orders have been made as to nurses.

## CHAPTER VI.

OUT-DOOR RELIEF FOR THE AGED,  
WIDOWS AND CHILDREN, THE SICK,  
AND NURSING MOTHERS.

THE influence of the Local Government Board and their inspectors has been generally employed against all out-relief, until in August, 1900, Mr. Chaplin issued his circular advising adequate out-relief for the deserving aged poor in the following terms:—

“The board consider that aged deserving persons should not be urged to enter the workhouse at all unless there is some cause which renders such a course necessary, such as infirmity of body, the absence of house accommodation, or of a suitable person to care for them, or some other similar cause, but that they should be relieved by having adequate outdoor relief granted to them.”

The circular did good, but unfortunately some of the inspectors rather explained it away. To make it really effective the Local Government Board should re-issue this advice to the present members of the boards of guardians, and should add that the allowances should be sufficient to cover rent and clothing unless the recipient of out-relief was provided with lodging and clothing from other

sources.<sup>1</sup> Also the board should enquire as to the ordinary scale of relief of each board of guardians and *publish* the replies. Then, after a little time has elapsed, they should, when the scale is below that of other boards in like districts and obviously inadequate, instruct the inspectors to call the attention of the guardians to the facts.

Although the board and its inspectors have no power at present to prevent out-relief to the aged who are past work, or to the sick, or to a widow with a dependent child or children, they have been perpetually influencing the guardians against out-relief in general terms. The board can only compel the guardians by formal orders; the official circulars and instructional letters of the board have no binding force, but the tendency of these documents, and, still more, the unwritten but very effective words of the inspectors, have been gradually inducing some guardians to cut off all out-relief, and offer the alternative of starvation or the workhouse to the deserving poor.

The Local Government Board also uses its influence against out-relief in general by praising the unions where out-relief is the least, and by "patting on the back" officials who keep it down.

Another method by which the Local Government Board sharpens the poor law is by encouraging

<sup>1</sup> This is necessary because a Poor Law Order forbids direct payment of rent, and an erroneous idea has been created that the guardians ought not to give an allowance to cover rent, which of course they may do. See Explanation of the Order in Shaw's "Poor Law Orders," p. 33, note, and p. 104, below.



boards of guardians to make bye-laws or resolutions tying their own hands as to out-relief, and (I believe) even restricting medical attendance. These bye-laws go on from year to year, and prevent the guardians from exercising the discretion which the law has put in their hands, as to the kind of relief to be given.

The law gives certain powers and discretions to a board of guardians; can it be right for them to refuse to exercise such discretion because another board, some years before, passed a bye-law that no out-relief should be given in certain cases where the law permits the guardians to give it if they think fit? Probably these bye-laws are in law waste paper, but they deprive many poor men and women of the aid they seek in distress.

The paupers cannot challenge their validity in the law courts, but I wish some M.P. would call for a return of the bye-laws and resolutions of the boards of guardians, and ask the Law Officers of the Crown whether they are of any legal weight.

#### WIDOWS AND CHILDREN.

The Local Government Board in 1871 made (among others) the following suggestions:—

(a) That out-relief should not, except in special cases, be granted to any woman deserted by her husband during the first twelve months after the desertion, or to any able-bodied widow with one child only.

(b) That in the case of any able-bodied widow with more than one child it may be desirable to take one

## OUT-DOOR RELIEF FOR CHILDREN. 41

or more of the children into the workhouse in preference to giving out-door relief.<sup>1</sup>

It should be noticed that the law gives—yes, and even the Poor Law Orders give—full power to the guardians to grant out-relief in such cases ; but the Local Government Board tried by suggestions to prevent such relief. Most people think it better for children not to be brought up in the workhouse<sup>2</sup> ; and surely the best mode of boarding-out a child is to board it with its own mother. This was done in the case of Moses with distinguished success. This same circular contains many other suggestions, all calculated to dissuade the guardians from giving out-relief in cases where the law permits such assistance.

In some instances, if out-relief is refused, the results may be most serious. If a mother with an infant is refused out-relief, she will often be obliged to undertake for a bare subsistence work which will prevent her from “nursing” her infant, or from discharging this, her first duty, properly. Or she will earn so little that the infant will be starved to death. We know now that the high infant mortality occurs almost entirely among infants who are not “nursed” by their mothers.<sup>3</sup> Even older children will often require milk which the mother cannot

<sup>1</sup> “Relieving Officer” (Shaw & Sons), p. 55. See also Shaw’s “Poor Law Orders, pp. 24, 25.”

<sup>2</sup> Mr. Chaplin in his Circular of 1900 (see p. 38) advised that children should *not* be kept in the workhouses. This circular of 1871 should be formally recalled or “explained.”

<sup>3</sup> As to infant mortality, see pp. xvii, 103.

afford to buy; and "taking one or more of the older children into the workhouse" will not feed the others who are left with the widow.

In the above-mentioned circular of 1900, Mr. Chaplin made many suggestions for the welfare of the children treated by *indoor* relief. Now the children for whom out-relief is given are far more numerous than those in workhouses, schools, etc. (see p. 45), and the out-relief is very often quite inadequate. I fear that often bread is given when milk is required. Another circular should be issued advising that the out-relief to children should be adequate and suitable. With a view of reducing infant mortality the guardians should be advised (even where there is an able-bodied father) to supply when necessary, milk or other food to nursing mothers—in some cases this might be given on loan.

#### MEDICAL OUT-RELIEF.

Attempts have been made by the Poor Law Department of the Local Government Board and its inspectors to cut down medical relief. Colonel Preston advised that all medical orders should be given on loan.<sup>1</sup> Mr. Longley recommended that the guardians should require personal attendance of applicants for medical relief, and also laid great stress on the importance of giving it on loan.<sup>2</sup>

A very recent example of unfortunate interference on the part of the Local Government Board is

<sup>1</sup> Report of Poor Law Conference, Northampton, 1901, p. 500.

<sup>2</sup> Quoted by Mr. Bousfield, Poor Law Conference, 1883, p. 432.

given in the following paragraph of the *Poor Law Officers' Journal* of March 9th, 1906 (p. 230):—

The Local Government Board are enquiring from the St. George-in-the-East Guardians the cause of the recent increase in the number of medical orders issued in the parish. Mr. Long, a member of the board of guardians, attributes the increase to the number of foreigners who apply to the medical officers for certificates to enable them to get relief from the Jewish Board of Guardians.<sup>1</sup>

While, therefore, medical officers of health are insisting upon early medical inspection in case of illness, with a view of saving the public from infection, should the illness turn out to be of an infectious kind, the Local Government Board are putting obstacles in the way of poor people (among whom infectious disease often commences) asking for prompt medical help. For some detailed information as to the danger of this course, both to the life of the individual as well as to the health of the public, reference may be made to a pamphlet, "The Health of the Nation."<sup>2</sup>

The Local Government Board would do well to advise boards of guardians to offer every reasonable facility for medical relief to poor persons.

See also suggestions made in the Preface, p. xvii.,

<sup>1</sup> The Jewish Board of Guardians—a voluntary society—gives out-relief. Infant mortality has been decreasing in this union, so I trust the guardians will not take any notice of the suggestions of the Local Government Board.

<sup>2</sup> A Letter to the President of the Local Government Board (Mr. Long), by J. T. Dodd (Alden, Oxford. Simpkin, Marshall & Co., London, 1905).

above, and in Chapter XII., pp. 83—87, also the notes in the Appendix, p. 103, below.

### DESTITUTION OR POVERTY THE TITLE TO RELIEF.

In a memorandum of February, 1878, the Local Government Board again calls attention to the restrictions on out-relief suggested in 1871,<sup>1</sup> and quotes with approval some Manchester bye-laws founded on them. This memorandum declares:—

“The guardians need scarcely be reminded of the broad and general principle of the English Poor Law, viz., that no person has a claim to relief from the rates, except in case of actual destitution.”<sup>2</sup>

It is submitted that this is not a correct account of the law. The statute of Elizabeth orders relief for those who are not able to maintain themselves, and speaks of “the poor,” not of the destitute.<sup>3</sup>

See p. 40, above.

<sup>2</sup> The Act 11 & 12 Vict. c. 110, s. 10, speaks of “destitute wanderers or wayfarers.” If these apply for relief they may be searched, and their money forfeited. All persons applying for relief must on enquiry make complete disclosure of any property. If a pauper has any property the guardians may recover the cost of his maintenance. See 12 & 13 Vict. c. 103, s. 16, and Archbold, on Poor Law, pp. 331-38. But this does not alter the statute of Elizabeth or justify the statement of the Local Government Board cited in the text. As another example of the tendency of the Poor Law Board to sharpen and misstate the law against the poor, note how the sudden or urgent necessity of Article 208 (1) becomes “peculiar urgency” in its application to the belated wayfarer in 9 Off. Circular, 144. See Shaw’s “Poor Law Orders,” pp. 97, 204.

<sup>3</sup> This is confirmed by use of the word “poor” in 4 & 5 Will. IV. c. 76. See section 109, and Preface, pp. xxiv—v.

And the class of persons entitled to relief are those mentioned in the statute of Elizabeth (see pp. 5, 6, 57). A person may have a claim to relief although he is still possessed of a bed, chairs, and table, and has a few pence in his pocket.<sup>1</sup>

<sup>1</sup> Sir Hugh Owen, before the Commission on Distress from want of Employment " (commonly called the "Unemployed Commission") admitted that "it is not necessary for a man to sell all his furniture in order to obtain relief from the guardians." First Report p. 56, Q.Q. 536, 537.

*Additional Note.*—The following statistics are taken from the 34th Annual Report of the Local Government Board, 1904—5 (pp. lxiv, lxv):—

	Unions in London.	Unions out- side London.	Total England and Wales.
INDOOR :—			
Children of able-bodied parents relieved .. .. .	2,546	12,451	14,997
Children of not able-bodied parents relieved .. .. .	1,574	2,842	4,416
Orphans or children relieved without parents .. .. .	15,719	23,946	39,665
OUTDOOR :—			
Children of able-bodied widows relieved .. .. .	7,079	89,656	96,735
Other children relieved with one or both parents being able-bodied .. .. .	8,982	53,384	62,366
Children of not able-bodied parents relieved .. .. .	918	18,797	19,715
Orphans or children relieved without parents .. .. .	929	8,948	9,877
	<hr/> 37,747	<hr/> 210,024	<hr/> 247,771

[This shows that there were only 59,078 children receiving indoor relief, while no less than 188,693 received outdoor relief. In discussing the position of the children it is fair to add that the Local Government Board have done good by their "Boarding-Out" Orders (which, however, need a little extension) and recently by the issue, under Mr. Gerald Balfour, of the Underfed Children's Order and Circular. See p. xxv, above.]

## CHAPTER VII.

AID EXTORTED FROM POOR  
RELATIONS.

IT is obviously right that when a father or mother comes to want, the son or daughter, if able, should take the parent home and return the kindness received in infancy. The child or other near relation, rather than the ratepayers, should, if capable, maintain the poor person. This excellent principle is laid down by the statute 43 Eliz. c. 2, s. 7, in the following words:—

“And be it further enacted, That the father and grandfather, and the mother and grandmother, and the children of every poor, old, blind, lame, and impotent person, or other poor person not able to work, being of a *sufficient ability*, shall at their own charges relieve and maintain every such poor person in that manner, and according to that rate, as [by the Justices of the Peace of that County where such sufficient persons dwell, or the greater number of them, at their General Quarter Sessions, shall be assessed, upon pain that every one of them shall forfeit 20s. for every month which they shall fail therein].”<sup>1</sup>

<sup>1</sup> The legal liability is as declared by this statute, although the present procedure is regulated by modern statutes. See Archbold's "Poor Law," 14th edition, 1885, pp. 220-23, and *Rex v. Halifax*, Set. and Rem. 33, pl. 52; *Rex v. Dunn*, 1 Bott. 376. There are other provisions compelling persons

The portion in brackets has been repealed,<sup>1</sup> but it is of great importance in estimating the true meaning and effect of the statute.

Notice the words "of a sufficient ability," and that the forfeiture ordered was *£1 a month*.<sup>2</sup> Now, considering what labourers' wages were in the time of Elizabeth, it is absurd to suppose that this was intended to reach either the labouring or the artisan class.<sup>3</sup> It was only intended that the well-to-do people should provide for their relations, not that people who can only with difficulty maintain their wives and children should be compelled to cut down their children's necessary food and clothing to save the pockets of the ratepayers. Had it been intended that persons who had only enough, or little more than enough, to keep themselves and their families, should be taxed, the fine would have been a moderate sum, and probably a variable sum. And a power of distraining or imprisonment would have been given.<sup>4</sup>

It may be worth while to cite the expressions of the judges, mere dicta though they are, in connection with this section :—

"There being no temporal obligation to enforce

to maintain their wives and children if able to do so. See Archbold, p. 224 *et seq.* [In some editions this is section 6].

<sup>1</sup> By 31 & 32 Vict. c. 122, s. 36. See p. 96.

<sup>2</sup> Probably equivalent to at least *£5* a month at the present time.

<sup>3</sup> "The condition of the labouring class was such in 1601, that it cannot be considered labourers were included" (Stone's "Justices' Manual," 31st edit., p. 668).

<sup>4</sup> Compare sects. 3, 7 in Appendix. The Poor Law Am. Act,



the law of nature, it was found necessary to establish it by Act of Parliament, and that *can be extended no farther* than the law of nature went before" (Pratt, C.J., in *Rex v. Munden*, 1 Stra. 190).

"If the grandfather be a *rich man*, and the father a poor man, they (the justices) may make an order on the former to maintain his grandchildren" (Littledale, J., in *Rex v. Cornish*, 2 B. & Ad. 502).

In *St. Andrews Undershaft v. Mendez de Breta* (1 Lord Raymond 669), the justices made an order against a "very rich" Jew, who had turned his daughter out of doors because she had embraced Christianity, and in *Reg v. Toke*, 8 A. & E. 227, the order was made against a wool-sorter.<sup>1</sup>

In practice, now, labourers with families, having small or irregular wages, are compelled to stint their children to pay a shilling or two to save the rates. It will be observed that the only power given by the Act is to authorise the justices to direct persons who are of sufficient ability to "relieve and maintain" their poor relations. If construed in the plain and simple meaning of the words, it does not enable them to order a person who is not able *wholly* to maintain the poor relation to

1834, s. 78, does give power of distress and imprisonment; but this cannot alter the construction of 43rd Elizabeth.

<sup>1</sup> Reference may be made also to the following cases:—*Rex v. Dunn*, 1 Bott 446; *Rex v. Halifax*, *ib.* 429; *Rex v. Reeve*, *ib.* 421; *Rex v. Woodford*, *ib.* 434; *Rex v. Kempson*, *ib.* 373; *Maund v. Mason*, 9 L. R. Q. B. 254; *Reg. v. Morten* (or *Martin*), 5 Q. B. 591; *Coleman v. Birmingham*, 6 Q. B. D. 615; *Bancroft v. Mitchell*, 2 L. R. Q. B. 549; *Reg. v. Benoier*, 2 Lord Ray, 115; *Rex v. Smith*, 2 C. & P. 449.

contribute towards his maintenance ; but constantly boards of guardians (with the approval of the Local Government Board) compel the poor creatures to do so, and this course is said to be legal.

The Local Government Board in the above-mentioned circular of 1871 says :—

“That the provisions with respect to the compulsory maintenance of paupers by relations legally liable to *contribute* to their support should be more generally acted upon.”<sup>1</sup>

The memorandum of 1878 repeats this recommendation, and emphasises it.<sup>2</sup>

It is probable that a system by which the “house” alone is offered to poor old folk, and every effort is made to extort money out of sons or daughters (who can scarcely keep themselves), does for the moment save the rates. But it seems hardly wise to take from labourers money needed for the healthy up-bringing of their children for this purpose.

Practically, the Local Government Board should issue a circular, this time on the side of the poor, suggesting that no contribution should be asked from a man with less than a “living wage,” and that the guardians should not endeavour to imprison before they have satisfied themselves that the man has means to pay.

In most cases the guardians never go before the justices at all to obtain an order for maintenance.

<sup>1</sup> “Relieving Officer,” p. 56 ; “Shaw’s Poor Law Orders,” p. 19.

<sup>2</sup> *Ibid.*, pp. 57, 58 ; Shaw, p. 20.

They simply threaten the wretched labourer, and make him sign some document or enter into an agreement binding himself to make the payment which they (the guardians) take the liberty of assessing.

The Local Government Board should enquire into these agreements<sup>1</sup> and into this very doubtful procedure; and perhaps some M.P. will ask for copies of such agreements as have come to the knowledge of the board, and enquire whether they or their inspectors have expressed approval or disapproval.

In 1898 the Attorney-General said in an application for a writ of Habeas Corpus:—

It is only because it has been the common practice in many parts of the country to enforce these orders by imprisonment that it is desired to have an authoritative decision that such mode of enforcement is illegal."

In this case (*Re Gamble*) the Attorney-General obtained the order for which he applied, and said he would wire to Worcester to have Gamble released: <sup>2</sup>

<sup>1</sup> Of course they are entered into under pressure and without legal advice. See also p. 86, note.<sup>1</sup>

<sup>2</sup> The following is a full note of the decision in this case:—"Money due under an order of the justices made upon a person for the maintenance of his father under 43 Eliz. c. 2, s. 6, is recoverable as a civil debt and not as a penalty; and an order of justices for the payment of money so due cannot be enforced by imprisonment in default of distress, unless it has been proved that the person in default has since the date of the *latter* order had the means to pay the sum in respect of which he has made default: *Re Gamble*, [1899], 1 Q. B. 305; 79 L. T. Rep. 642.

In complaining of the cruel way in which the very reasonable provision of the statute of Elizabeth has been used against the struggling labourers, I have only spoken of the hardship upon the poor person who is compelled to contribute ; but the hardship is still greater on the poor old man, who is thus compelled to be, in effect, the prosecutor of his own son, and to take the bread out of mouths of his son's children. No wonder that we sometimes hear of poor people starving rather than apply to the "guardians of the poor."

## CHAPTER VIII.

AID FROM FRIENDLY SOCIETIES; OR,  
HOW THE LOCAL GOVERNMENT  
BOARD DISCOURAGED CHARITY AND  
"THRIFT."

IN the circular of 1871, already mentioned, the Local Government Board said :—

"If the applicant receives relief from any charitable sources, the same should be taken into account by the guardians in determining the amount, if any, to be allowed by them." <sup>1</sup>

The meaning of the board appears to be that if the ordinary relief to a person is 3*s.* 6*d.* and a loaf, and the applicant has 1*s.* from any charity or charitable person, the allowance shall be cut down to 2*s.* 6*d.* and a loaf.

The form of this declaration is likely to delude guardians into thinking that it is law, but it is nothing of the sort.

Surely this is a point on which the guardians might well, as representatives of the ratepayers, be left to their own discretion. But the Local Government Board's views were equally hard in the case of the

<sup>1</sup> The Local Government Board did not try to make a *rule* to this effect. And see recent statutes cited below, pp. 54, 55.

thrifty working man who has put his savings into a club.

The Poor Law Board said <sup>1</sup> :—

“With regard to relief to members of sick benefit societies, in the opinion of the Poor Law Board the guardians were not justified, according to the strict law applicable to such cases, in giving any further relief than such an amount as would, together with the sum that the person was receiving from the benefit society, render the amount of such person’s weekly income equal, *and no more than equal*, to that amount which the guardians hold to be necessary to relieve the destitution of a person similarly circumstanced, but who has no other means of support.”

The Poor Law Board admitted the value of benefit societies, but the above rule carefully discouraged any one from belonging to one, unless he could obtain from the club sufficient for his total maintenance.

The Poor Law Board added :—

“The only safe basis on which the system of benefit societies can rest, under the present system of the legal right to relief, is that they afford the means of providing in times of distress or disability a more eligible, respectable, and liberal maintenance than that supplied under the poor law, and that they should be still regarded as a mode for avoiding the *degradation* of parish support, rather than as conferring a title by which a claim to such support may be established even beyond the line of actual destitution.”

<sup>1</sup> Shaw’s “Poor Law Orders,” pp. 298-9, citing “22nd Annual Report, Poor Law Board,” p. 108. But now see statute, p. 54 below.

These remarks allow the true inwardness of the Poor Law Board and the Local Government Board to appear. They regarded the receipt of parish relief "*a degradation.*" This was the view of the Local Government Board, which its inspectors try to impress on the officers who have the administration of the poor law. It is submitted that this view is not part of the law of England, and further, that any one holding it is unlikely to administer the poor law in a satisfactory manner.

Drunkenness, dissolute life, and idleness, which lead many to the poor law, are undoubtedly degrading. The harsh treatment of some Bumble, the want of classification, etc., may in another sense also be "degrading." But the man in receipt of parish relief may himself be just as good a man as an honest millionaire.

It is evident that these official circulars and instructional letters, etc. (most of which were first published many years ago), need overhauling, and others of a different character should be substituted. The Local Government Board could do all this without any Act of Parliament.

By a recent statute (57 & 58 Vict. c. 25) power is given to boards of guardians to grant relief to persons, otherwise entitled to relief, notwithstanding income from a friendly society, and to grant such relief without deduction of the money received from the society.

This does not apply to charity in general nor to income from modes of thrift other than savings in

friendly societies, and, so far as it goes, is an evidence of legislative disapproval of the policy of Local Government Board on the subject. The Local Government Board has called the attention of the guardians to this Act (and so has, of course, superseded the circular *where it conflicts with the Act*), but in all probability the effect of the old circulars will long continue to the great hardship of many deserving poor.

The privileges of a member of a friendly society were further extended by 4 Edw. VII. c. 32 as follows :—

“In granting outdoor relief to a member of any friendly society, the Board of Guardians shall not take into consideration any sum received from such friendly society as *sick pay* except in so far as such sum shall exceed 5s. a week.”

In a “hard” union, however, this is perfectly useless, for the guardians can evade this statute by refusing out-relief and offering the workhouse to the applicant.



## CHAPTER IX.

THE UNEMPLOYED.<sup>1</sup>

THE object of this chapter is to show the powers given by law to the boards of guardians, subject to the control of the Local Government Board, to provide useful and productive employment for the able-bodied inmates of our workhouses, and, what is more important, for our unemployed labourers, many of whom would rather starve than enter the walls of institutions which they regard as degrading, and which their fathers styled "Bastilles." It is proposed to describe only those powers which can be exercised at once, without any new Act of Parliament, if both boards of guardians and the Local Government Board take the proper steps to put them in force; and the actual words of the statutes are here set out rather fully. If we wish to understand the poor law so that it shall become a means whereby to assist the unemployed, we should turn back to the statute 43 Eliz. c. 2, passed in the

<sup>1</sup> It is merely suggested that favourably disposed and situated boards of guardians be allowed to try working under the Acts mentioned at pp. 61-65 as an experiment. The Acts are also quoted as affording a basis and precedent for legislation. See p. 72.

year 1601, which is in truth the very basis of the English Poor Law.

#### DUTIES UNDER THE 43RD ELIZABETH.

The text of the first section is as follows:—

“Bee it enacted by the authoritie of this p'sent Parliament, that the churchwardens of everie parishe, and fower, three, or two substanciall housholders there as shal be thoughte meete, havying respecte to the p'porcon and greatnes of the same parishe (or) parishes, to be no'iated yearelie in Easter weeke or within one monethe after Easter, under the hande and seale of two or more justices of the peace in the same countie, whereof one to be of the quom dwellinge in or neere the same parishe or division where the same parishe doth lie shal be called overseers of the poor of the same parishe; and they or the greater parte of them shall take order from tyme to tyme, by and withe the consent of two or more suche justices of the peace, as is aforesaide, for settinge to worke of the children of all suche whose parentes shall not by the saide Churchwardens and overseers or the greater parte of them bee thoughte able to keepe and maintaine their children, and alsoe for settinge to worke all such p'sons, married or unmarried, havinge no means to maintaine them, use no ordinarie and dailie trade of lief to get their livinge by; and also to raise weekelie or otherwise, by taxacon of ev'y inhabitant, parson, vicar, and other, and of ev'y occupier of landes, houses, tithes impropriate or propriacons of tythes colemynes or saleable underwoods, in the saide parishe in such competent sume and sumes of money as they shall thincke fytt, *a convenient stocke of flaxe, hempe, wooll, threed, iron and other necessarie ware and stuffe to sett the poore on worke*; and alsoe competent sumes of money for and towards the necessarie releife of the lame, impotent, olde, blinde, and suche other amonge them beinge poore and not able to work and alsoe for the puttinge out

of suche children to be apprentices, to be gathered out of the same parishe, accordinge to the abilitie of the same parishe and to doe and execute all other thing as well for the disposinge of the saide stocke as otherwise concninge the p'misses as to them shall seeme convenient."

The section then proceeds to direct the churchwardens and overseers to meet together at least once a month, in the church, upon the Sunday in the afternoon, after Divine Service, "to consider of some good course to be taken and of some meete order to be set downe in the premises." They were to render accounts of moneys received and of stock in their hands, "or in the hands of any of the poore to worke." A penalty of 20s. is imposed on the parish officers for absence, without due cause, from the Sunday monthly meeting, or for negligence in their office.

The object of the above section, which may be called the dominant section of the Act, is threefold, viz., to provide (1) for children of the poor, (2) for the able-bodied unemployed poor, and (3) for the old, sick, and other poor<sup>1</sup> who are not able-bodied.

In this chapter it is proposed to discuss only the means which the poor law provides for helping the able-bodied unemployed, and strives to prevent destitution.

It will be observed at once that the Act contemplates not employment by way of test of poverty,

<sup>1</sup> By "poor" I mean those who are unable to maintain themselves, and need relief. Observe that the Act does not use the word "destitute."

but useful employment by which the able-bodied may earn, at least in part, their own living. It not merely enables, but *orders*, the parish officers to provide a convenient stock of "flaxe, hempe, wooll, threed, iron, and other necessarie ware and stuff"; and the overseers are to do whatever is necessary for the manufactures they are directed to set on foot, and also for disposing of the manufactured goods. The Act contemplates that each parish shall become both a manufacturer and a merchant. Though wool and iron, etc., are expressly mentioned, it is by no means intended that the powers of the parish officers should be limited to any particular kind of manufacture; for the Act, after enumerating several species of merchandise, proceeds to authorise the churchwardens and overseers to procure "other necessarie ware and stuff." They might, evidently, set up shops for the sale of goods. This section is still in force; it will be found at p. 546 of vol. i. of the second edition of the Revised Statutes, published by authority in 1888; but, as it has been observed above, the powers of the parish officers have been transferred to the boards of guardians and the Local Government Board. The guardians are the local administrators of the relief of the poor, though they are in almost all respects made subject to the control of the central authority, viz., the Local Government Board.<sup>1</sup>

<sup>1</sup> See Poor Law Am. Act, 1834, 4 & 5 Will. IV. c. 76, s. 38; Archbold's "Poor Law," 14th edit., p. 82. Subject to some

However, the net result is that 43 Eliz. c. 2, s. 1, empowers every board of guardians to become manufacturers of any kind of goods, and to open shops for the disposal of such manufactures.

In *Rex v. Collett* (2 B. & C. 329) it was declared by the Court that "*undoubtedly it is the primary duty of the overseers to find employment for the poor<sup>1</sup> if possible.*" "And," continues Chief Justice Abbott, "I express the opinion now for the sake of the poor themselves, to whom no greater kindness can be done than by enabling them to earn their own living by labour, instead of suffering them to eat the bread of idleness, by which their habits and morals must soon be corrupted." Finding employment for the legal poor is still the duty of the guardians of the poor<sup>2</sup>; for the law has not been altered in this respect by the Poor Law Commissioners or Board, or their modern representatives, the Local Government Board.

#### POWERS OF OBTAINING LAND.

It will be noticed that the Poor Law Statute, 43 Elizabeth, confers no express power upon the parish officers to obtain land. In all probability there was in the time of Elizabeth no occasion to give any such powers. Many parishes possessed

small exceptions, the ordering of relief is now taken away from justices and overseers. See pp. 22, 29.

<sup>1</sup> Observe that here again the word "poor," not "destitute," is used by the judges.

<sup>2</sup> But they need not do more than "offer the Workhouse" with employment therein. See Appendix p. 103.

land of their own, and in many others the common or waste was not yet regarded as strictly private property, and was easily obtainable for the public purposes of the parish.

#### POWER TO BUY OR HIRE LAND.

But, in later years, difficulties with reference to land appear to have arisen; and the Act 59 Geo. III. c. 12, s. 12, states<sup>1</sup> that by an Act passed in the 43rd year of the reign of Queen Elizabeth, the churchwardens and overseers were directed—observe, not merely enabled—to set to work certain persons therein described; and that by the laws then (*i.e.*, in 1819) in force sufficient powers were not given to the churchwardens and overseers to enable them to keep such persons fully and constantly employed. It then proceeds to authorise the parish officers to buy or hire twenty acres of land in the following terms:—

“It shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants thereof in vestry assembled, to take into their hands any land or ground which shall belong to such parish, or to the churchwardens and overseers of the poor of such parish, or to the poor thereof, or to purchase, or to hire and take on lease, for and on account of the parish, any suitable portion or portions of land within or near to such parish, not exceeding *twenty* acres in the whole; and to

<sup>1</sup> These *statements* being in the nature of “preamble” are not printed in the revised second edition of the Statutes. They will be found in Evans’s “Collection of Statutes” (vol. viii., p. 145) and other editions.

employ and set to work in the cultivation of such land, on account of the parish, any such persons as by law they are directed to set to work, and to pay to such of the poor persons so employed as shall not be supported by the parish, *reasonable wages* for their work; and the poor persons so employed shall have such and the *like remedies for the recovery of their wages*, and shall be subject to such and the like punishment for misbehaviour in their employment, as other labourers in husbandry are by law entitled and subject to."

Here, then, it is to be remembered, that, after the experience of more than two centuries, the Legislature affirmed and extended the provisions of the Elizabethan poor law ordering that useful employment should be given to the poor. It also declared that the poor so employed might have "reasonable wages"—a suggestive premonition of "fair wages"—recoverable at law. This is different from a starvation allowance.

This section is still in force, and will be found printed in vol. iv. of the second edition of the Revised Statutes, published in 1891, at page 216, though of course the powers therein described are no longer in the hands of the parish officers.<sup>1</sup>

In 1831 the Allotments Act of that date (1 & 2 Will. IV. c. 42) declares that the limitation to twenty acres had "been found inconvenient in

<sup>1</sup> The Act limited the amount to be raised for buildings, purchase of land, stocking, etc., to a rate of 1s. in the £, except more was authorised by a species of special resolution of the inhabitants. Under certain circumstances loans might be raised; see sections 14-16, now repealed.

## TRANSFER OF POWERS TO GUARDIANS. 63

many parishes," and extends the power of hiring from twenty acres to fifty acres.<sup>1</sup>

The statute also gives some further powers for obtaining land, which it is only necessary to mention here as indicating the thorough conviction of Parliament that useful employment on the land was the best remedy for the destitution of able-bodied persons. In fact, the Legislature was so pleased with the idea that it calls the purposes of this, its own Act, "salutary and benevolent." And in the same year an Act (1 & 2 Will. IV. c. 59) was passed empowering the parish officers, with the consent of the Treasury, to enclose forest or waste lands not exceeding *fifty* acres, for the purpose of cultivating and improving the same for the use and benefit of such parish and the "poor persons" within the same. (Revised Statutes, second edition, vol. v., p. 138; Evans, vol. ix., p. 123.)

## TRANSFER OF POWERS TO BOARDS OF GUARDIANS.

It is necessary now to show how these powers were transferred from the parish officers to the boards of guardians. This was done by the Union and Parish Property Act, 1835 (5 & 6 Will. IV. c. 69), which followed upon the Poor Law Amendment Act of 1834, the famous "New Poor Law,"<sup>2</sup>

<sup>1</sup> Probably this Act also extends the purchasing power to fifty acres. The opinion of the Law Officers of the Crown is in favour of this view. See p. 75, below.

<sup>2</sup> See pp. 6, 22, 54, above.



whereby the relief of the poor was almost entirely taken out of the hands of individual parishes and placed under the management of boards of guardians.

Section 4 of the above-mentioned Act of 1835 enacts that all the powers and authorities in and by 59 Geo. III. c. 12, given to the parish officers for taking land or ground into their hands, and for purchasing, hiring, and taking on lease any land, and all the powers and authorities contained in 1 & 2 Will. IV. c. 42, and in 1 & 2 Will. IV. c. 59 (the three Acts quoted above), and in 2 & 3 Will. IV. c. 42 (an Act which will be mentioned hereafter), shall in future be exercised (under the control and subject to the rules, orders, and regulations of the Poor Law Commissioners) by the overseers of the poor in any parish not under the management of a board of guardians, and by the guardians of the poor of any union or parish formed or established by virtue of any statute or local Act.

The powers of the Poor Law Commissioners have been transferred to the Local Government Board, and therefore nothing can be done except under their control.

So the practical result at which we arrive is this:—

Subject to the rules, etc., of the Local Government Board, every board of guardians may buy fifty acres of land for the purposes of the above Acts. It may be open to question whether they

can only buy twenty<sup>1</sup> acres for the whole union, or whether they can buy that acreage for every parish within the union; but it is submitted that the latter is the true interpretation of these "salutary and benevolent" Acts.<sup>1</sup>

#### NATURE OF WORK WHICH CAN BE PROVIDED.

The guardians can stock the land, erect all necessary farm buildings, make all needful improvements, and dispose of the produce by sale or otherwise. In fact, they have full power to establish labour colonies.

#### GENERAL POWERS OF GUARDIANS.

The Statute Law, then, permits boards of guardians to put in force the laws which our forefathers made for the benefit of the poor. Should this be done on a large scale it will be very necessary to guard against injury to independent workers from competition by the guardians' industrial undertakings. This might be accomplished by providing that no manufactured articles should be put on sale in the open market, but that they should only be used for the support and maintenance of, or for sale at a low price to, the workers in the labour colonies, or for exchange

<sup>1</sup> This chapter consists mainly of a portion of an article by the present writer which appeared in the *New Review* of August, 1893. Since that article was written the Law Officers of the Crown have given an opinion in favour of the view taken by the present writer, that the fifty acres may be bought for each parish. See p. 76, below.

with other colonies, or for the poor in receipt of indoor or outdoor relief.

Allowances of boots, shoes, clothing, etc., to sick or aged persons in receipt of out-relief, in addition to, and not in substitution for, their "parish pay," would materially add to their comfort and happiness without in the least depriving private shopkeepers of any profitable custom. Sales for His Majesty's prisons, and perhaps for the Army and Navy, might also be permitted<sup>1</sup>; and probably it would not be needful to place any restriction on the sale of the produce of the farm, the garden, or the poultry yard.

One word with regard to the expenses incurred by guardians. No doubt the cost of establishing farms and workshops would have to come out of the local rates, but the money required for purchasing land, erecting buildings, etc., might be raised by a loan from the Government, and the repayment spread over a period of years, so that the burden would not fall too heavily on the present ratepayers.

And the Government would also further encourage action by the guardians, if they would arrange to lend money for the purchase of land and for permanent improvements on easier terms, and throw the repayment over a longer period than is at present permitted.

There is one more provision as to taking land

<sup>1</sup> See suggestions and observations of the Poor Law Commission of 1834, pp. 15, 16, 19, above.

which should be mentioned: 30 and 31 Vict. c. 106, s. 13, enables guardians, with the approval of the Local Government Board, to hire or take on lease temporarily, or for a term of years not exceeding *five*, any land or buildings for the purpose of the relief or employment of the poor. No doubt this is put in force to some small extent.

#### ORDERS OF LOCAL GOVERNMENT BOARD.

It should be understood that there is no general order of the Local Government Board preventing guardians from giving any kind of employment they may think fit; but there are some suggestions of the Poor Law Commissioners as to the desirability of test labour, originally made many years ago, which are still considered authoritative. And practically no large amount of permanent useful employment can be given unless the guardians obtain both land and loans, with the sanction of the Central Board.

Moreover, though in London and most of the large centres of population the guardians can give out-door relief (coupled with employment) to the able-bodied, in most of the smaller towns and in the rural unions the "prohibitory" order is in force which forbids out-relief to the able-bodied who need relief only from lack of employment. In these last-mentioned unions, therefore, the guardians can only give employment coupled with residence in the workhouse unless (as is frequently done in

emergencies) the Local Government Board issue a supplementary order which places these unions<sup>1</sup> on substantially the same footing as the first class of unions mentioned.<sup>2</sup>

#### CONSERVATIVE ACT FOR THE "UNEMPLOYED."

When the Conservative Government passed in 1905 an Act for providing employment for the unemployed they were accused of having introduced a novelty into the law of England ; but as a matter of fact it is already, and has been from the time of Elizabeth, the duty of the State (first through the parish officers and now through the guardians) to find employment for all the unemployed who cannot find work and have no others means of maintenance.

It is true that the guardians can usually meet this obligation by giving them employment in the workhouse, and that, except in the case of employment for reasonable wages under 59 Geo. III. c. 12, s. 12 (see p. 61), disfranchisement follows<sup>2</sup> ; but these facts do not take away the right to employment given by 43 Eliz. and never abolished. If the guardians and the Local Government Board thought it desirable, any kind of work might in any union be given to the unemployed who cannot maintain themselves, without any workhouse test.

<sup>1</sup> These are under the Outdoor Relief *Regulation* Order, which strictly *regulates* their employment. See App., p. 103.

<sup>2</sup> It is doubtful whether such labourers are disfranchised.

## GUARDIANS CAN PROVIDE ALLOTMENTS.

So far we have been assuming that the persons, being previously unemployed and practically destitute, will work for the guardians either as paupers, or as labourers receiving reasonable money wages or a sufficient payment of money and kind. But it is far better to prevent extreme poverty than to attempt to alleviate that dreary evil.

And here, again, we may recall the almost forgotten laws which were made more than eighty years ago.

By section 13 of the Act 59 Geo. III. c. 12, it is provided :—

“That for the promotion of industry amongst the poor, it shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants in vestry assembled, to let any portion and portions of such parish land as aforesaid, or of the land to be so purchased or taken on account of the parish, to any poor and industrious inhabitant of the parish, to be by him or her *occupied and cultivated on his or her own account*, and for his or her own benefit, at such *reasonable rent* and for such term as shall by the inhabitants in vestry be fixed and determined” (Revised Statutes, second edition, p. 276).

This section 13 must be read with section 12 (set out above), and, as will be seen, it enabled the parish officers, with consent of the vestry, to let any part of the twenty acres mentioned in section 12 to poor and industrious inhabitants, to cultivate on their own account, at a reasonable rent.

These powers of the parish officers have been

transferred to the boards of guardians, and can only be exercised by them under the control and subject to the rules, etc., of the Local Government Board. (See 5 & 6 Will. IV. c. 69, s. 4, cited above, p. 64.)

It is needful, here, to mention that these provisions of 1819 are in some respects far more liberal to the labourers than the Allotments Act, 1887 (50 & 51 Vict. c. 48):—

1. The old Act only requires a “reasonable rent,” which may fairly mean a rent that the labourer can pay while he lives and thrives. The modern statute requires such a rent as will recoup the local authority for their outlay in purchase of land, law costs, etc.

2. The old Act imposes no restriction on the size of the allotment, while under the Act of 1887 no one may hold more than one acre.

3. By the Allotments Act, 1887 (s. 7), the tenant is forbidden to erect any building other than “a toolhouse, shed, greenhouse, fowlhouse, or pigsty.” And if he does erect any such forbidden building, not only does he obtain no compensation for it when he leaves, but the council is directed by the Act to pull it down as soon as it is built, and to sell the materials and confiscate the money produced by the sale. No option is given to the council to repay to the tenant the net sale-moneys after paying expenses of sale ; but they are, legally, bound to keep the money as if it were rent. Such a provision in an Act affecting rich people would be

called robbery. There is nothing of the kind in the Act of 1819.

4. Under the Allotments Act, 1887, if the land bought for allotments turns out valuable for building in consequence of a town developing towards it (land *in* "a town" is exempt from rights of pre-emption), and the council decides to remove the allotments elsewhere, before selling the land the council is bound to offer it for sale, at a price to be fixed by arbitration (no doubt on the increased value), to the person entitled to the land from which it was severed, or, if he cannot be found, to the neighbouring owners.

No special privilege of pre-emption to landowners is given by the Act of 1819<sup>1</sup> over land which the ratepayers have purchased.

The powers of the parish officers under the Allotments Act, 1832 (2 & 3 Will. IV. c. 42), were likewise transferred to the guardians; but it does not seem needful now to discuss this Act, or the effect upon it of subsequent legislation. It is, however, worth while to mention that it speaks in the preamble of "fair rent," and provides that allotments should be let at such rent as land of the same quality is usually let for in the parish.

<sup>1</sup> On the other hand, the Act of 1887 has no limit of twenty or fifty acres.

*Additional Note.*—It is not meant in any way to depreciate the Allotments Act, 1887. It is a very useful Act, though it needs amendment. It does not apply to the Metropolis. The Town and District Councils are the authorities for putting it in force. The old Acts for Allotments do apply to the Metropolitan Guardians as well as to all other Boards of Guardians.



## LEGISLATION SUGGESTED.

It will be seen from the above statements that the duties of the guardians are extensive, and the powers of the guardians and of the Local Government Board together extremely wide.

It is therefore most important not to allow them to be swept away under the pretence of consolidation of the poor law or of removing "obsolete laws" from the statute book, unless and until better provision is made for the unemployed. Many persons whose views are entitled to consideration greatly deprecate any measures, either of administration or legislation, which will bring more people within the scope of the poor law. It would, of course, be well to deal with the unemployment by legislation. It is an Imperial and not a local problem. Also in many ways the municipal bodies are better able to give useful employment than the boards of guardians, and therefore either some of the powers and duties of the guardians should be transferred to the town councils<sup>1</sup> or, at least, the town councils should elect out of their own body a certain number of representatives to sit on the boards of guardians.<sup>2</sup>

Again, it would be better that the Allotments Act, 1887, should be improved and extended, than that a rival set of "poor people's" allotments should be provided by the side of those provided by the

<sup>1</sup> Thus the power to rent or buy land and set the unemployed at work for wages should be transferred to the Town Council as proposed by Mr. Atherley Jones' Bill of 1905.

<sup>2</sup> This is done at Oxford under local Acts,

councils. The chief obstacle to the greater use of the Act of 1887 is the requirement that the council should not acquire land for allotments under that Act, unless the council think the allotments will pay their own expenses.

Now allotments give such a healthy kind of employment and amusement that they are really indirectly a gain to the whole body of ratepayers. They are strongly recommended as an aid to the health of the city by Dr. Ormerod, the able medical officer for Oxford. The Act of 1887 should be modified so as to enable the councils to risk a loss if they think it for the benefit of their districts so to do.

## CHAPTER X.

## EMPLOYMENT OF THE POOR ON THE LAND.

THE *New Review* for August, 1893, p. 191, contained an article by the present writer which showed<sup>1</sup> that the Act of Elizabeth ordered the parish officers to procure a stock of flax, iron, and other ware to provide employment for the poor, and that the same Act enabled them to sell the manufactured goods. In the same article it was also shown that by statutes of the 19th century,<sup>2</sup> the parish officers were authorised to buy or hire land, and both (*a*) to employ the poor thereon at "reasonable wages," and (*b*) to let land in allotments of any size at "reasonable rents" to poor and industrious inhabitants. It was also explained that these powers of acquiring land were now by the Union and Parish Property Act, 1835,<sup>3</sup> vested in the boards of guardians, but could only be exercised under the control and subject to the rules, orders, and regulations of the Local Government Board; and the article concluded with urging the Government to issue regulations for putting these Acts in force.

<sup>1</sup> See Chapter IX., pp. 57—59.

<sup>2</sup> 59 Geo. III. c. 12, ss. 12, 13; 1 & 2 Will. IV. c. 42, pp. 61, 69.

<sup>3</sup> 5 & 6 Will. IV. c. 69, s. 4. See p. 63 above.

## EMPLOYMENT OF POOR ON LAND. 75

The whole subject was brought before Sir H. Fowler, the President of the Local Government Board, in Parliament; and on September 12th, 1893, he said, in reply to Mr. Keir Hardie :—

“The Law Officers of the Crown have advised that the powers which were vested in overseers of parishes under the 43 Eliz. c. 2 (passed in 1601) and the 59 Geo. III. c. 12 (passed in 1819), are, by virtue of the Poor Law Amendment Acts of 1834 and 1835, vested in boards of guardians subject to the control of the Local Government Board. The result appears to be that the boards of guardians have power to purchase or rent land not exceeding fifty acres for any parish, and to open workshops for setting destitute able-bodied persons to work, and to pay such persons reasonable wages for their labours. The law officers further advised that wages so paid would be parochial relief, and would involve the same disfranchisement as other relief under the poor laws.”

This question of “disfranchisement” will be discussed further on (see p. 77). Sir H. Fowler added that, although these various powers still remained on the statute book, there could be no doubt that during a long period of years they had been regarded as obsolete, and since the passing of the Poor Law Amendment Act of 1834 they had not been acted upon by boards of guardians. Sir H. Fowler concluded his reply by saying :—

“The principle by which the boards of guardians have been governed in the administration of out-relief to destitute able-bodied persons has been that in each case such relief should be given by them as the necessities of the case require, work being provided merely as a test of destitution.

“The adoption of schemes for the provision by

boards of guardians of work at wages would involve an abandonment of what has hitherto been regarded as the principle of the new poor law, upon which the orders as to out-relief which have been in force during the last half-century have been based. Whether so grave a change in the policy and administration of the poor law is desirable, and if so, whether it should be made without legislative authority, are questions on which I could not express an opinion without the sanction of my colleagues. In the meantime the fullest and most careful consideration of the Local Government Board shall be given to the whole subject."

Mr. Keir Hardie then asked whether "in cases where two or more parishes are combined in one union, the union has power to acquire fifty acres of land in respect of each parish, or only fifty for the combined parishes?"

Sir H. Fowler :—

"We are advised that it would be for each parish. Therefore, if there were three parishes, the union would have power to acquire 150 acres."

It should be added that both Sir H. Fowler's replies are "starred" in "Hansard," indicating that they have been revised by him.

On July 10th Sir H. Fowler said :—

"The law does not empower the guardians to provide employment for assisting those who are out of work. Their duty is to relieve destitution, and in connection with this relief they may impose a task of work as a test of destitution."

This reply is also "starred" in "Hansard."

There are two points in Sir H. Fowler's reply which deserve notice. It would appear from his

words that persons employed by the guardians on the land acquired under the above-mentioned statutes of the 19th century would become disfranchised. But it is doubtful whether this would be so, and whether the law officers definitely advised to this effect.<sup>1</sup> It has been decided that men employed in the stoneyard, or on other labour by way of relief, at *less* than the current wages, would be disfranchised. But it does not in the least follow that a person employed on land acquired under the Act of 1819 and paid "reasonable wages" would lose his vote. Such a man is not treated by the Act of 1819 as a pauper, or in receipt of relief. Although paid by the parish, he is not regarded as *supported* by the parish. The Act gives him, too, all the remedies for recovery of wages that other labourers in husbandry were entitled to. This is not the case with a pauper.

Sir H. Fowler seemed to be under the impression that boards of guardians have nothing to do with giving employment, but only to relieve destitution ;

<sup>1</sup> A legal opinion is not of much value unless the "case for opinion" is produced, so that it is clear that the facts have been fully and correctly stated. In several cases it has been held that payment by the parish at a lower rate than the usual rate of wages disqualified. See "Rogers on Elections," i. 192 ; "Mackenzie and Lushington," 263 ; and in *Magarrill v. the Overseers of Whitehaven* (16 Q. B. D. 242 ; 55 L. J. Q. B. D. 38) it was held that payments made to a pauper for breaking stones in the stoneyard disqualified ; but this payment assumed the form of relief, not wages, "and was measured by the wants of the applicant and not by the quantity of work done." This is quite different from "reasonable wages."

and apparently the Local Government Board has been affected by this same notion for many years. But the governing idea of the statute of Elizabeth is "giving employment to the poor who cannot maintain themselves." The Court has stated that it was the primary duty of the overseers to give employment for the poor *if possible*. This applies now to the guardians. (See pp. 60, 64.)

It is true that section 52 of the Poor Law Act 4 & 5 Will. IV. c. 76, enabled the Poor Law Commissioners (now the Local Government Board), by "rules, orders, or regulations," to declare on what conditions outdoor relief should be given to the able-bodied. But no rule, etc., has been issued taking away from the guardians their primary duty, which therefore still remains their duty accordingly.<sup>1</sup>

The law cannot be altered except by a formal "Order" of the Board. The mere pious opinions of the inspectors, or of the president, cannot weaken the force either of the statute of Elizabeth or of the decisions or even of the *dicta* of the judges.

It would seem, consequently, that the Local Government Board have not given due regard to some of the principles of the law they are supposed to administer.

Again, Sir H. Fowler spoke of the "destitute"; but this is not the word used in 43rd Elizabeth. Our

<sup>1</sup> Of course the guardians "satisfy" the law by giving to the able-bodied employment *in the workhouse*. See App., p. 103.

poor law provides for the poor who are unable to maintain themselves.<sup>1</sup> The notion which seems to exist in some quarters that guardians can do nothing for a man until he is completely destitute is not law ; but this mistaken notion has been used to press hardly upon the poor.<sup>2</sup>

<sup>1</sup> See Preface, pp. xxiv.—v., and pp 44, 57, 60, 61, 90, 93, 95, 97, 98. Of course, Sir Henry Fowler only represented the views of the Board. For his excellent and humane work in connection with the Poor Law, see p. vii.

<sup>2</sup> Note also the power to provide allotments for "poor and industrious persons" (p. 69) ; and also that the guardians have certain powers of assisting emigration of "poor" persons.



## CHAPTER XI.

## POWERS OF THE LOCAL GOVERNMENT BOARD TO ORDER USEFUL EMPLOYMENT.

THE question has been asked, Can the Local Government Board in any case *order* productive or useful work to be done ?<sup>1</sup> It certainly can in some cases :—

(1) It can, where necessary, order enlargement or improvement of workhouses or workhouse infirmaries, 4 & 5 Will. IV. c. 76, s. 25. These institutions are sometimes grievously over-crowded.<sup>2</sup>

The board should in the first instance direct its inspectors to state, *by name*, in their published reports, all such workhouses. Then, if exposure and the advice of the Local Government Board did not induce the guardians to remedy the evil, the Board should order the improvement to be made, unless the guardians reduced the over-crowding by giving out-relief.<sup>3</sup>

<sup>1</sup> See question and reply in the House of Commons on November 24th, 1893.

<sup>2</sup> This appears from the reports of the inspectors, and would appear much more plainly if they reported more fully.

<sup>3</sup> No doubt this would often be the best course.

(2) Apart from the poor law, the Local Government Board in its capacity as superior sanitary authority can order the performance of some sanitary work which would give a substantial amount of useful employment.

Of course it should not, and could not, order sanitary work merely for the unemployed; but the contention is, that if the Local Government Board only ordered such work as is highly necessary, great benefits would be conferred on the community, with the incidental advantage that some, at least, of the rough work would afford employment where it was and is most needed.

When a local authority fails to put down nuisances the Local Government Board may take proceedings for that object (Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 106), and in many other cases enforce performance of duties by local authorities (*id.*, s. 299). They may order mortuaries to be provided (*id.*, s. 141), and in urban districts may order cleansing of footways and pavements (*id.*, s. 42).<sup>1</sup>

Besides the direct power of the Local Government Board to *compel*<sup>2</sup> better sanitation, it has

<sup>1</sup> By s. 42 the Local Government Board may order cleansing of "streets." This includes footways and pavements; see s. 4, and note to s. 44 in "Lumley on Public Health," p. 72. In towns the carriage roadways are usually cleansed (more or less) by the local authorities, but not the pavements. A circular, suggesting cleansing of pavements also, would be useful.

<sup>2</sup> The Public Health Act, 1875, does not apply to London, which is governed by the Public Health Act, 1891. This

many opportunities, by holding public enquiries and otherwise, of improving the public health. But the following extract from a medical paper of November, 1893, seems to suggest that more vigour is needed in this department of the Local Government Board:—

“Hitherto the pressure on local authorities to undertake sanitary improvements has come from the Local Government Board; but the inevitable delays which must attend all transactions with a great public office have caused the local authorities to look upon its interference as a subject, as the French say, *pour rire*.”

It is obvious, also, that the Government might advance public health and encourage useful work by reducing the rate of interest on loans, and by allowing the local authorities in many cases to throw the repayment over a longer period than is now permitted. There are statutory periods within which the loans must be repaid, according to the nature of the work; but the Government officials often considerably shorten such periods, to the sorrow of the present ratepayer and the advantage of the landlord.<sup>1</sup>

latter Act places more power in the London County Council; consequently the Local Government Board has less power in London than elsewhere.

<sup>1</sup> No doubt the future tenant will throw a share on the landlord, if the repayment is spread over a longer period as is here suggested.

## CHAPTER XII.

DETAILED SUGGESTIONS AS TO  
MEDICAL OUT-RELIEF.

THIS subject has been fully discussed by the present writer in a letter to the President of the Local Government Board (Mr. Long), entitled, "The Health of the Nation," so it is only necessary here to give some suggestions as to the form which a circular as to Medical Out-relief should take, and other means by which the Local Government Board could reduce disease and high infant mortality in the nation.

It is suggested that the Local Government Board should issue a circular advising Boards of Guardians :—

- (1) *In favour of* harmonious co-operation with the Town Councils for the benefit of the Public Health ; and pointing out that, where the Guardians think fit, they can co-opt two members of the Council (under the Local Government Act, 1894, sect. 20, sub-sect. (7) ), and also may, by arrangement with the Council, secure the assistance of the Sanitary Inspectors to relieve destitute persons where the visits of the Relieving Officer may be attended with

danger to him and his family and the public.<sup>1</sup>

- (2) *Against* deterring applications for Medical Relief by persons unable to pay a doctor ; and especially against any general rule or practice making Medical Relief relief on loan in the first instance,<sup>2</sup> or requiring the sick person, or a husband or wife of the sick person, or a parent of a child, to appear before the Board or Committee unless there is some special reason for so doing ;<sup>3</sup> *against* attempting to make poor persons repay the cost of Medical Relief (especially in infectious or children's cases), unless there is reason to believe that they can afford to repay.<sup>4</sup>

<sup>1</sup> See pp. 1, 2, 16—23, of *Letter* cited.

<sup>2</sup> When the case has been seen by the doctor and reported to the Board, the Guardians could make all *future* relief from that date a loan, or require the applicant's attendance if they thought fit. The important point is that there should be early inspection by the Doctor ; and therefore the first order, whether made by the Relieving Officer or by the Guardians, should be free of any suggestion of loan to persons who state that they cannot pay for a Doctor, unless there is strong reason to the contrary. I think, however, in infectious cases and in children's cases where there is destitution (*i.e.* present inability to pay anything, see *Letter*, p. 3), it should be clearly understood that medical attendance and medicine (and usually all medical relief) would be free during the whole illness.

<sup>3</sup> This is specially important, as some of the Poor Law Inspectors have advised Boards of Guardians to adopt these methods.

<sup>4</sup> See pp. 6—8, 35, 36, of above *Letter*, as to present practice of some Guardians, and *id.*, pp. 23—25 as to some Poor Law Inspectors.

- (3) *Against* making Medical Relief in Confinements a debt, unless there is reason to believe that the persons assisted can afford to pay for medical help.<sup>1</sup>

It is also suggested that the Local Government Board should :—

- (4) In official returns and statistics distinguish between Medical Out-relief only and ordinary Out-door relief.<sup>2</sup>
- (5) Issue a Circular as to Tramps, advising a careful inspection of Tramps in the casual wards, and ready grant of Orders for the doctor to those in the common lodging houses unable to pay a doctor.<sup>3</sup>
- (6) Issue a Circular explaining the duties of Guardians and Relieving Officers as to Medical Relief. In drafting such Circular special attention should be paid to points where the Poor Law has often been misunderstood.<sup>4</sup> This might be done as a supplement to the Circular issued to the Relieving Officers in 1896.<sup>5</sup>
- (7) Obtain from all Unions, which habitually give Medical Relief on loan, particulars of their charges to the poor ; and, where a charge is made for medical attendance,

<sup>1</sup> See *Letter*, pp. 13—16.

<sup>2</sup> This is advocated by Sir William Chance (Report of Poor Law Conference, May 22, 1903, p. 174). See *Letter*, p. 20.

<sup>3</sup> See *Letter*, pp. 22—25.

<sup>4</sup> See *Letter*, pp. 11—13.

<sup>5</sup> See *Letter*, pp. 30, 35, 36.

information whether the doctor is paid in whole or in part by case fees ; also when the Guardians use any printed or written form of agreement for repayment, obtain a copy of such agreement.<sup>1</sup>

- (8) In accordance with the Recommendation of the Committee on Physical Deterioration,<sup>2</sup> set on foot and maintain from year to year a register of sickness treated by the Poor Law Medical services not confined to infectious sickness.

It is here suggested that the Local Government Board should proceed by Advisory Circular ; but should this prove insufficient, of course the power to make relief a loan is dependent upon the "Orders" of the predecessors of the Local Government Board. If the Board thought fit it could, for instance, wholly prohibit this practice in the case of persons with infectious disease, or of sick children, when there was present inability to pay the doctor ; or prohibit it in the case of such persons with weekly earnings below some specified amount ; or they could suspend the power during an epidemic. Small-pox and measles and other infectious diseases in one Union soon spread to another. Should, therefore, the fiery zeal of any Board of Guardians for the reduction of

<sup>1</sup> See Report of Poor Law Conference, May, 1903, p. 170; also p. 50 above, and *Letter*, pp. 30, 35.

<sup>2</sup> Report, pars. 62, 63, and Recommendation No. (2), par. 423. I would suggest this should include confinements. See *Letter*, p. 16.

"pauperism" make the Guardians forgetful of the great and lasting strife of the Nation with the forces of preventable disease and degeneracy and premature death, the Local Government Board, which has the supreme supervision of the health of the whole country, can make any Orders which may be necessary.<sup>1</sup> -

<sup>1</sup> *Consumption*.—It is among the very poorest that the poison is generated which extends from them indirectly to classes that ought not to have consumption at all: *per* Sir W. Broadbent, *Tuberculosis*, Aug. 1905, p. 258; see also *id.* 254. "By feeding the underfed school children we shall be preventing tuberculosis," *id.*, Jan. 1906, p. 378. With a view of reducing the national mortality from consumption, it is important that, besides affording early medical relief when needed, we should regard it as "an infectious disease of a dangerous character" within the meaning of the Consolidated Order of 12 Feb. 1879, Art. III. (Shaw's P. L. Orders, p. 669), and that notice should be given by the Poor Law doctor for the district to the Sanitary Authority or Medical Officer of Health, so that the Sanitary Inspector may visit the house where the patient lives and cause all possible precautions to be taken. Probably this could be effected by Local Government Board circular to the Poor Law medical officers, but if an explanatory order is necessary it should be made. Guardians should also be reminded of their power, in case of consumption or other illness, to give, where necessary, extra money relief on condition that the patient has a separate room. See pp. 39, 104, and *Letter*, p. 11.

On the subject of medical relief generally, see also pp. xvii, 42, 43.





APPENDIX.<sup>1</sup>

## I.

THE TEXT OF THE POOR RELIEF ACT, 1601  
(43 ELIZ. c. 2) SO FAR AS IT IS UNREPEALED.

ANNO QUADRAGESIMO TERTIO ELIZABETHÆ  
REGINÆ.

## CAP. II.

*AN ACT FOR THE RELIEF OF THE POOR.*<sup>2</sup>

BE it enacted by the Authority of this present Parliament, That the Churchwardens<sup>3</sup> of every Parish, and Four, Three, or Two substantial Household-ers there, as shall be thought meet, having respect to the Proportion and Greatness of the same Parish [or]<sup>4</sup>

Overseers  
the Poor,  
their Office  
etc.

<sup>1</sup> See Chapter II., p. 5.

<sup>2</sup> Only those portions of the Act which are unrepealed are here printed. It must, however, be remembered that though the sections here printed are not repealed, their practical effect has sometimes been much altered by subsequent legislation: *e.g.*, see pp. 6, 63, above. There is no preamble to 43 Eliz. c. 2. An old edition of the Statutes, at the commencement of the statutes for the year, states that they were enacted "To the high pleasure of Almighty God and the weal publick of the realm."

<sup>3</sup> The mode of appointment of overseers is now altered in rural parishes.

<sup>4</sup> Another reading is "and."

Parishes, to be nominated yearly in *Easter* Week, or within one Month after *Easter*, under the Hand and Seal of Two or more Justices of the Peace in the same County, whereof One to be of the Quorum, dwelling in or near the same Parish or Division where the same Parish doth lie, shall be called Overseers of the Poor of the same Parish ; and they, or the greater Part of them, shall take Order from Time to Time, by and with the Consent of Two or more such Justices of Peace as is aforesaid, for setting to work the Children of all such whose Parents shall not, by the said Churchwardens and Overseers, or the greater Part of them, be thought able to keep and maintain their Children ; and also for setting to work all such Persons, married or unmarried, having no Means to maintain them, [and]<sup>1</sup> use no ordinary and daily Trade of Life to get their Living by ; and also to raise weekly or otherwise (by Taxation of every Inhabitant, Parson, Vicar, and other, and of every Occupier of Lands, Houses, Tithes Improprate, Propriations of Tithes, Coal Mines or saleable Underwoods in the said Parish, in such competent Sum and Sums of Money as they shall think fit) a convenient Stock of Flax, Hemp, Wool, Thread, Iron, and other Ware and Stuff, to set the Poor on Work ; and also competent Sums of Money for and towards the necessary Relief of the Lame, Impotent, Old, Blind, and such other among them being Poor, and not able to work ; and also for the putting out of such Children to be Apprentices, to be gathered out of the same Parish, according to the Ability of the same Parish, and to do and execute all other Things, as well for the disposing of the said Stock, as otherwise concerning the Premises, as to them shall seem convenient ;<sup>2</sup> which said Churchwardens and Overseers so to be nominated, or such of

Who shall be taxed towards the Relief of the Poor.

A convenient Stock shall be provided to set the Poor on Work.

The Overseers shall meet Once every month and account.

<sup>1</sup> The word "and" is omitted in the large Record Office edition of the Statutes and in the second edition of the revised Statutes. It is in Pickering's and the Queen's Printers' editions. In Chitty's Statutes the reading is "as use."

<sup>2</sup> See Chapters IX., X., pp. 56, 74.

them as shall not be let by Sickness or other just Excuse, to be allowed by Two such Justices of Peace or more as is aforesaid, shall meet together at the least Once every Month, in the Church of the said Parish, upon the *Sunday* in the Afternoon after Divine Service, there to consider of some good Course to be taken, and of some meet Order to be set down in the Premises; and shall within Four Days after the End of their Year, and after other Overseers nominated as aforesaid, make and yield up to such Two Justices of Peace as is aforesaid a true and perfect Accompt of all Sums of Money by them received, or rated and sessed and not received, and also of such Stock as shall be in their Hands or in the Hands of any of the Poor to work, and of all other Things concerning their said Office; and such Sum or Sums of Money as shall be in their Hands shall pay and deliver over to the said Churchwardens and Overseers newly nominated and appointed as aforesaid, upon pain that every One of them absenting themselves without lawful Cause as aforesaid from such monthly Meeting for the Purpose aforesaid, or being negligent in their Office or in the Execution of the Orders aforesaid, being made by and with the Assent of the said Justices of Peace or any Two of them before mentioned, to forfeit for every such default of Absence or Negligence Twenty Shillings.

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Parishes

II. And if the said Justices of Peace do perceive that the Inhabitants of any Parish are not able to levy among themselves sufficient Sums of Money for the Purposes aforesaid, that then the said Two Justices shall and may tax, rate, and assess as aforesaid any other of other Parishes, or out of any Parish within the Hundred where the said Parish is, to pay such Sum and Sums of Money to the Churchwardens and Overseers of the said poor Parish for the said Purposes as the said Justices shall think fit, according to the Intent of this Law; and if the said Hundred shall not be thought to the said Justices able and fit to relieve the said several Parishes not able to provide for themselves as aforesaid, then the Justices of Peace

at their General Quarter Sessions, or the greater Number of them, shall rate and assess as aforesaid any other of other Parishes, or out of any Parish within the said County, for the Purposes aforesaid, as in their Discretion shall seem fit.<sup>1</sup>

III. And that it shall be lawful as well for the present as subsequent Churchwardens and Overseers or any of them, by Warrant from any Two such Justices of Peace as is aforesaid, to levy as well the said Sums of Money, and all Arrearages, of every One that shall refuse to contribute according as they shall be assessed, by Distress and Sale of the Offenders' Goods, as the Sums of Money or Stock, which shall be behind upon any Accompt to be made as aforesaid, rendering to the Parties the Overplus [and in defect

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<sup>1</sup> In some editions the sections here printed as 2 and 3 are together printed as section 2, and the numbers of all the subsequent sections altered accordingly. It seems that *this power to make rates in aid is still in force*, notwithstanding the following question and reply (taken from the *Daily Chronicle* of Feb. 17th, 1894): "Mr. Keir Hardie asked the President of the Local Government Board whether section 3 of the Act 43 Eliz., c. 2, which empowered two justices of the peace, who were satisfied that the inhabitants of any parish were not able to relieve their own poor, as provided by the poor law, to assess other richer parishes within the same hundred or county for the relief of the poor in the parish first referred to, was still in force; and if not, by what statute it had been repealed; and whether he was aware that it had been decided in the Law Courts that under this section the justices might impose a special rate on selected rich individuals in a neighbouring parish, instead of levying it on such parish as a whole.—Mr. Fowler said whether the enactment of 43 Eliz., c. 2, which was passed in 1601, was operative at the present time was a question of law, which could only be determined by a judicial decision. Under the existing law, the maintenance of the poor was a charge on the common fund of the union, to which all the parishes included in the union contributed in the proportion of their rateable value. The Local Government Board were not aware of any case in which rates in aid had been levied under the Act of Elizabeth since the Poor Law Amendment Act, 1834, was passed."

of such Distress it shall be lawful for any such Two Justices of the Peace to commit him or them to the Common Gaol of the County, there to remain without Bail or Mainprise until payment of the said Sum, Arrearages, and Stock]<sup>1</sup>; and the said Justices of Peace, or any One<sup>2</sup> of them, to send to the House of Correction or Common Gaol such as shall not employ themselves to work, being appointed thereunto, as aforesaid; and also any such Two Justices of Peace to commit to the said Prison every One of the said Churchwardens and Overseers which shall refuse to accompt, there to remain without Bail or Mainprise until he have made a true accompt, and satisfied and paid so much as upon the said Accompt shall be remaining in his Hands.

Imprisonment of those that will not work.

Refusers accompted and imprisoned

IV. And it shall be lawful for the said Churchwardens and Overseers, or the greater Part of them, by the Assent of any Two Justices of the Peace aforesaid, to bind any such Children as aforesaid to be Apprentices, where they shall see convenient, till such Man-child shall come to the Age of Four and Twenty Years, and such Woman-child to the Age of One and Twenty Years, or the time of her Marriage; the same to be as effectual to all Purposes as if such Child were of full Age, and by Indenture of Covenant bound him or herself.<sup>3</sup>

Binding Childrer Apprent

V. And to the Intent that necessary Places of Habitation may more conveniently be provided for such poor<sup>4</sup> impotent People, be it enacted by the Authority aforesaid, That it shall and may be lawful for the said Churchwardens and Overseers, or the greater Part of them, by the Leave of the Lord or Lords of the Manor<sup>5</sup> whereof any Waste or Common

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<sup>1</sup> Words in brackets repealed by 12 & 13 Vict. c. 14, s. 2.

<sup>2</sup> The word "one" is omitted in the Revised Statutes, 2nd edition.

<sup>3</sup> So much of this Act as compels any person to receive an Apprentice is repealed, 7 & 8 Vict. c. 101, s. 13.

<sup>4</sup> Note the word "poor" again, and also at pp. 90, 95, 97.

<sup>5</sup> It will be observed that no consent of the freeholders or

within their Parish is or shall be Parcel, and upon Agreement before with him or them made in Writing, under the Hands and Seals of the said Lord or Lords, or otherwise, according to any Order to be set down by the Justices of Peace of the said County at their General Quarter Sessions, or the greater Part of them, by like Leave and Agreement of the said Lord or Lords, in Writing under his or their Hands and Seals, to erect, build, and set up, in fit and convenient Places of Habitation in such Waste or Common, at the general Charges of the Parish, or otherwise of the Hundred or County as aforesaid, to be taxed, rated, and gathered in manner before expressed, convenient Houses of Dwelling for the said impotent Poor, and also to place Inmates or more Families than One in One Cottage or House; One Act made in the Thirty-first year of Her Majesty's Reign, intituled *An Act against the erecting and maintaining of Cottages*,<sup>1</sup> or anything therein contained, to the contrary notwithstanding; which Cottages and Places for Inmates shall not at any Time after be used or employed to or for any other Habitation, but only for Impotent and Poor of the same Parish, that shall be there placed from Time to Time by the Churchwardens and Overseers of the Poor of the same Parish, or the most Part of them, upon the Pains and Forfeitures contained in the said former Act made in the said Thirty-first Year of Her Majesty's Reign.

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VI. Provided always, That if any Person or Persons shall find themselves grieved with any Sess or Tax, or other act done by the said Churchwardens, and other Persons, or by the said Justices of Peace, that then it shall be lawful for the Justices of Peace, at their General Quarter Sessions, or the greater number of

copyholders is requisite. This suggests that either the Waste or Common was not yet looked upon as strictly private property, or that the officers of the parish were considered to sufficiently represent the tenants of the manors. For restrictions on enclosures under this section, see Commons Act, 1899, s. 22.

<sup>1</sup> This Act, 31 Eliz. c. 7, is repealed by 15 Geo. III. c. 32.

them, to take such Order therein as to them shall be thought convenient; and the same to conclude and bind all the said Parties.

VII. And the Father and Grandfather, and the Mother and Grandmother, and the children of every poor, old, blind, lame, and Impotent Person, or other poor Person not able to work, being of a sufficient Ability,<sup>1</sup> shall at their own Charges relieve and maintain every such poor Person in that Manner, and according to that Rate as.<sup>2</sup> . . .

Poor Persons relieve by their Parents or Children.

VIII. And the Mayors, Bailiffs, or other Head Officers of every Town or Place Corporate and City within this Realm, being Justice or Justices of Peace, shall have the same authority by virtue of this Act, within the Limits and Precincts of their Jurisdictions, as well out of Sessions as at their Sessions, if they hold any, as is herein limited, prescribed, and appointed to Justices of Peace of the County, or any Two or more of them, or to the Justices of Peace in their Quarter Sessions, to do and execute for all the Uses and Purposes in this Act prescribed, and no other Justice or Justices of Peace to enter or meddle there; and that every Alderman of the City of *London* within his Ward shall and may do and execute in every respect so much as is appointed and allowed by this Act to be done and executed by One or Two Justices of Peace of any County within this Realm.

Officers of Corporate Towns have the Authority of Justices of Peace.

Aldermen of *London*.

IX. And if it shall happen any Parish to extend itself into more Counties than One, or Part to lie within the Liberties of any City, Town, or Place Corporate, and Part without, that then as well the Justices of Peace of every County, as also the Head Officers of such City, Town, or Place Corporate, shall deal and intermeddle only in so much of the said

A Parish extending into Two Counties, or into Two Liberties.

<sup>1</sup> These words are very important. See Chapter VII., pp. 46—51. Note also the words "poor person," not "destitute person."

<sup>2</sup> The rest of the section is repealed by 31 & 32 Vict. c. 122, s. 36. See p. 46. The Petty Sessions now have jurisdiction.



Parish as lieth within their Liberties, and not any further; and every of them respectively, within their several Limits, Wards, and Jurisdictions, to execute the Ordinances before mentioned, concerning the Nomination of Overseers, the Consent to binding Apprentices, the giving Warrant to levy Taxations unpaid, the taking Accompt of Churchwardens and Overseers, and the committing to Prison such as refuse to accompt, or deny to pay the Arrearages due upon their Accompts; and yet nevertheless the said Churchwardens and Overseers, or the most Part of them of the said Parishes that do extend into such several Limits and Jurisdictions, shall, without dividing themselves, duly execute their Office in all Places within the said Parish in all things to them belonging, and shall duly exhibit and make One Accompt before the said Head Officer of the Town or Place Corporate, and One other before the said Justices of Peace, or any such Two of them, as is aforesaid.

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X. And if in any Place within this Realm there happen to be hereafter no such Nomination of Overseers yearly as is before appointed, that then every Justice of Peace of the County dwelling within the Division where such Default of Nomination shall happen [and every Mayor, Alderman, and Head Officer of City, Town, or Place Corporate where such Default shall happen],<sup>1</sup> shall lose and forfeit for every such Default Five Pounds, to be employed towards the Relief of the Poor of the said Parish or Place Corporate, and to be levied as aforesaid of their Goods by Warrant from the General Sessions of the Peace of the said County, [or of the same City, Town, or Place Corporate, if they keep Sessions.]<sup>1</sup>

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mployed.

XI. And all Penalties and Forfeitures before mentioned in this Act to be forfeited by any Person or Persons shall go and be employed to the Use of the Poor of the same Parish, and towards a Stock and

<sup>1</sup> These two portions in brackets are repealed by 12 & 13 Vict. c. 8, s. 2, subject to proviso (s. 4) as to the City of London and places under local Acts.

Habitation for them, and other necessary Uses and Relief, as before in this Act are mentioned and expressed; and shall be levied by the said Churchwardens and Overseers, or One of them, by Warrant from any Two such Justices of Peace, or Mayor, Alderman, or Head Officer of City, Town, or Place Corporate respectively, within their several Limits, by Distress and Sale thereof, as aforesaid; or in defect thereof it shall be lawful for any Two such Justices of Peace, and the said Aldermen and Head Officers within their several Limits, to commit the Offender to the said Prison, there to remain without Bail or Mainprise till the said Forfeitures shall be satisfied and paid.

[Sections 12—17 are repealed by 26 & 27 Vict., c. 125 (Statute Law Revision Act). Section 18 relates to the Island of Fowlness, in Essex, only. It directs that Justices of Peace shall nominate and appoint Inhabitants within the said Island to be Overseers for “the *poor People*”<sup>1</sup> dwelling within the said Island.]

[Section 19 (or 18) is repealed by 56 & 57 Vict., c. 61; and section 20 (or 19) by 26 & 27 Vict., c. 125, S. L. R.]

## II.

### THE TEXT OF THE RECOMMENDATIONS OF THE POOR LAW COMMISSION OF 1834.<sup>2</sup>

#### I. IN-RELIEF TO ABLE-BODIED.

[No. 1 is fully set out at p. 14, above.<sup>3</sup>]

#### 2. CENTRAL BOARD.

We recommend, therefore, the appointment of a Central Board to control the administration of the

Poor Law  
Commissioners,  
p. 297.

<sup>1</sup> Observe the word “poor” not “destitute.”

<sup>2</sup> See Chapter III., p. 11, above.

<sup>3</sup> Report of the Poor Law Commissioners, p. 262.

poor laws, with such assistant Commissioners as may be found requisite; and that the Commissioners be empowered and directed to frame and enforce regulations for the government of workhouses, and as to the nature and amount of the relief to be given and the labour to be exacted in them, and that such regulations shall, as far as may be practicable, be uniform throughout the country.<sup>1</sup>

### 3. FORMATION OF UNIONS.

To effect these purposes<sup>2</sup> we recommend that the Central Board be empowered to cause any number of parishes which they may think convenient to be incorporated for the purpose of workhouse management, and for providing new workhouses where necessary, to declare their workhouses to be the common workhouses of the incorporated district, and to assign to those workhouses separate classes of poor, though composed of the poor of distinct parishes, each distinct parish paying to the support of the permanent workhouse establishment in proportion to the average amount of the expense incurred for the relief of its poor for the three previous years and paying separately for the food and clothing of its own paupers.<sup>3</sup>

### 4. ACCOUNTS.

We recommend, therefore, that the Central Board be empowered and required to take measures for the general adoption of a complete, clear, and as far as may be practicable, uniform system of accounts.<sup>4</sup>

<sup>1</sup> Report, p. 297.

<sup>2</sup> That is, classification, uniformity of treatment, economy, etc.—subjects which the Commissioners discuss in the pages preceding this recommendation. They remark that “the children who enter an ordinary workhouse quit it, if ever they quit it, corrupted where they were well disposed, and hardened where they were vicious” (p. 309).

<sup>3</sup> Report, p. 314.

<sup>4</sup> *Id.*, p. 139.

## 5. INCORPORATION OF PARISHES.

We further recommend, therefore, that the Central Board be empowered to *incorporate parishes* for the purpose of appointing and paying permanent officers, *and for the execution of works of public labour.*<sup>1</sup>

Poor Law Commissioners,  
p. 326.

## 6. PAID OFFICERS.

[No. 6, relating to paid officers, is set out above at p. 16.]

Poor Law Commissioners,  
p. 329.

## 7. TENDER.

We recommend that the Central Board be empowered to direct the parochial consumption to be supplied by tender and contract, and to provide that the competition be perfectly free.<sup>2</sup>

Poor Law Commissioners,  
p. 330.

## 8. PROSECUTORS.

We recommend that the Central Board be empowered and required to act in such cases as public prosecutors.<sup>3</sup>

Poor Law Commissioners,  
p. 331.

## 9. RELIEF BY LOAN.

We therefore recommend, that under regulations to be framed by the Central Board, parishes be empowered to treat any relief afforded to the able-bodied, or to their families, and any expenditure in the workhouses or otherwise incurred on their account, as a loan, and recoverable not only by the means given by the 29th section of the 59th Geo. III., c. 12, but also by attachment of their subsequent wages in a mode resembling

Poor Law Commissioners,  
p. 337.

<sup>1</sup> Report, p. 326. The Commissioners strongly urge the provision of useful employment, pp. 324—328, and condemn useless toil as pernicious (p. 324). Drainage of a town and road-mending in the country, are given as instances of useful employment (p. 325).

<sup>2</sup> *Id.*, p. 321.

<sup>3</sup> *Id.*, p. 331. See p. 16 above.

that pointed out in the 30th, 31st, and 32nd sections of that Act.<sup>1</sup>

#### 10. APPRENTICING.

r Law  
amis-  
ners,  
38.

We recommend, therefore, that the Central Board be empowered to make such regulations as they shall think fit respecting the relief to be afforded by apprenticing children, and that at a future period, when the effect of the proposed alterations shall have been seen, the Central Board be required to make a special inquiry into the operation of the laws respecting the apprenticing children at the expense of parishes, and into the operation of the regulations in that respect which the Board shall have enforced.<sup>2</sup>

#### 11. VAGRANTS.

or Law  
mmis-  
ners,  
140.

We recommend that the Central Board be empowered and directed to frame and enforce regulations as to the relief to be afforded to vagrants and discharged prisoners.<sup>3</sup>

#### 12. REPORT OF CENTRAL BOARD.

or Law  
mmis-  
ners,  
341.

We recommend, therefore, that the Board be required to submit a Report annually to one of your Majesty's Principal Secretaries of State, containing—(1) An account of their proceedings; (2) Any further amendments which they may think it advisable to suggest; (3) The evidence on which the suggestions are founded; (4) Bills carrying those amendments (if any) into effect, which Bills the Board shall be empowered to prepare with professional assistance.<sup>4</sup>

#### 13. OFFICERS OF CENTRAL BOARD.

or Law  
mmis-  
ners,  
341.

We recommend that the Central Board be empowered to appoint and remove their assistants and all their subordinate officers.<sup>5</sup>

<sup>1</sup> Report, p. 337.

<sup>2</sup> *Id.*, p. 338.

<sup>3</sup> *Id.*, p. 340.

<sup>4</sup> *Id.*, p. 341.

<sup>5</sup> *Id.*, p. 341.

## 14. SETTLEMENT.

We recommend, therefore, that settlement by hiring and service, apprenticeship, purchasing or renting a tenement, estate, paying rates, or serving an office, be abolished.<sup>1</sup>

Poor Law Commissioners, p. 342.

## 15. SETTLEMENT OF CHILDREN.

We recommend, therefore, that (subject to the obvious exceptions of persons born in prisons, hospitals, and workhouses) the settlement of every legitimate child born after the passing of the intended Act, follow that of the parents or surviving parent of such child, until such child shall attain the age of sixteen years, or the death of its surviving parent; and that at the age of sixteen, or on the death of its surviving parent, such child shall be considered settled in the place in which it was born.<sup>2</sup>

Poor Law Commissioners, p. 343.

## 16. PROOF OF SETTLEMENT.

We recommend that whenever there shall be any question regarding the settlement by birth of a person whether legitimate or illegitimate, and whether born before or after the passing of the intended Act, the place where such person shall have been first known by the evidence of such person, by the register of his or her birth or baptism, or otherwise to have existed, shall be presumed to have been the place of his or her birth, until the contrary shall be proved.<sup>3</sup>

Poor Law Commissioners, p. 346.

## 17. SETTLEMENT OF ILLEGITIMATE.

We recommend that the general rule shall be followed, as far as it is possible, and that every illegitimate child born after the passing of the Act, shall, until it attain the age of sixteen, follow its mother's settlement.<sup>4</sup>

Poor Law Commissioners, p. 346.

<sup>1</sup> Report, p. 342.

<sup>2</sup> *Id.*, p. 343.

<sup>3</sup> *Id.*, p. 346.

<sup>4</sup> *Id.*, p. 346.

## 18. SUPPORT OF ILLEGITIMATE BY MOTHER.

Poor Law  
Commissioners,  
p. 347.

As a further step towards the natural state of things, we recommend that the mother of an illegitimate child born after the passing of the Act, be required to support it, and that any relief occasioned by the wants of the child be considered relief afforded to the parent.<sup>1</sup>

## 19. SUPPORT OF ILLEGITIMATE BY MOTHER'S HUSBAND.

Poor Law  
Commissioners,  
p. 349.

We recommend that the same liability be extended to her husband.<sup>2</sup>

## 20. MOTHER OF ILLEGITIMATE.

Poor Law  
Commissioners,  
p. 349.

On the other hand we recommend the repeal of that part of the 35 Geo. III., c. 101, s. 6, which makes an unmarried pregnant woman removable, and the 50 Geo. III., c. 51, s. 2, which authorises the committal of the mother of a chargeable bastard to the House of Correction.<sup>3</sup>

## 21. IMMUNITY OF FATHER OF ILLEGITIMATE.

Poor Law  
Commissioners,  
p. 351.

We recommend, therefore, that the second section of the 18 Eliz. c. 3, and all other Acts which punish or charge the putative father of a bastard shall, as to all bastards born after the passing of the intended Act, be repealed.<sup>4</sup>

## 22. EMIGRATION.

Poor Law  
Commissioners,  
p. 357.

We recommend, therefore, that the vestry of each parish be empowered to order the payment out of the

<sup>1</sup> Report, p. 347.

<sup>2</sup> *Id.*, p. 349.

<sup>3</sup> *Id.*, p. 349.

<sup>4</sup> *Id.*, p. 351. Of course the suggestion that a man should be free to have illegitimate children without paying for their support has not been adopted by the Legislature. When the wisdom of the Commissioners of 1834 is over-much extolled, it is desirable to remember this suggestion of theirs (see pp. 17, 18).

rates raised for the relief of the poor, of the expenses of the emigration of any persons having settlements within such parish, who may be willing to emigrate; provided that the expense of each emigration be raised and paid within a period to be mentioned in the Act.<sup>1</sup>

## III.

THE RIGHT OF THE ABLE BODIED.<sup>2</sup>

The right of the able-bodied person who is unable to maintain himself is (under 43 Eliz. c. 2) to employment coupled with relief; see *Attorney-General v. Guardians of Merthyr Tydvil*, L. R. [1900] 1 Ch. 516; 82 L. T. Rep. 662, 665, but he cannot claim *out-relief* unless the workhouse is full; and in unions where the "Prohibitory Order" is in force, the guardians can only give him relief in the workhouse—except in case of sickness of himself, his wife or family, and in some other excepted cases. Where this Order is not in force they can give even the able-bodied out-relief, but it is strictly regulated by the Out-door Relief *Regulation Order* (see pp. 67, 68 above).

## IV.

INFANT MORTALITY AND VILLIERS LE DUC.<sup>3</sup>

The following extracts from the report of the Mayor of Villiers le Duc will show the wonderful reduction of infant mortality in that district. Though the same methods could not be followed exactly by English local authorities, still much might be done even under the present law. I quote the extracts from pages 64, 65, of the very able report of Dr. Moore, of Huddersfield:—

"Considering that the municipal authorities have the duty of endeavouring to stop the depopulation of

<sup>1</sup> Report, p. 357.

<sup>2</sup> See Preface, p. xxiv.

<sup>3</sup> See Preface, p. xvii.



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